

OFFICIAL INFORMATIONCONFIDENTIAL**EVIDENCE CODE SECTION 1040
INTRADEPARTMENTAL CORRESPONDENCE**

DATE: November 11, 2020

TO: Honorable Board of Police Commissioners

FROM: Inspector General

SUBJECT: LAW ENFORCEMENT-RELATED INJURY 002-20 FOR 11/17/20
CLOSED-SESSION AGENDA

| Division | Date | Time | Duty-On (X) Off () | Uniform-Yes (X) No () |
|-----------------|-------------|-------------|----------------------------|-------------------------------|
|-----------------|-------------|-------------|----------------------------|-------------------------------|

| | | | | |
|-----------------|--------|-----------|--|--|
| North Hollywood | 1/5/20 | 3:45 a.m. | | |
|-----------------|--------|-----------|--|--|

| Officer(s) Involved in Use of Force | Length of Service |
|--|--------------------------|
|--|--------------------------|

| | |
|----------------------|----------------------|
| Rodriguez, S./PO III | 12 years, 9 months |
| Nguyen, D./PO II | 11 years, 11 months |
| Duplechein, J./PO II | 5 years |
| Cairns, E./PO II | 3 years, nine months |
| Simon, A./PO II | 3 years, 10 months |
| Kowalczyk, S./PO I | 1 year, 4 months |
| Ripplinger, V./PO I | 1 year, 1 month |
| Silva, I./PO I | 6 months |

Total Involved Officer(s)

1 x Sgt. I
1 x PO III
4 x PO II
3 x PO I

| Suspect | Deceased () | Wounded (X) | Non-Hit () |
|----------------|---------------------|--------------------|--------------------|
|----------------|---------------------|--------------------|--------------------|

Oktawian Balenkowski: Male White, 38 years of age.

COP Recommendations

Tactics – Tactical Debrief, Sergeant Morales and Officers Rodriguez, Silva, Duplechein, Ripplinger, Simon, Cairns, Nguyen, and Kowalczyk.

Non-Lethal Use of Force – In Policy, No Further Action, Officers Rodriguez, Silva, Duplechein, Ripplinger, Simon, Cairns, Nguyen, and Kowalczyk.

IG Recommendations

Tactics – Same as COP.

Non-Lethal Use of Force – Same as COP.

Table of Contents

| | | |
|------|---|-------|
| I. | Investigation | |
| i. | Annotated Force Investigation Division (FID) Incident Summary | p. 4 |
| II. | Chief of Police Report | |
| i. | Chief of Police Findings | p. 27 |
| ii. | Chief of Police Analysis | p. 27 |
| III. | Inspector General Review | |
| i. | Inspector General Analysis | p. 63 |
| ii. | Inspector General Recommendations | p. 63 |

INVESTIGATION

Annotated Force Investigation Division (FID) Incident Summary¹

Synopsis: On Sunday, January 5, 2020, at 0329 hours, North Hollywood Patrol Division uniformed police officers responded to a radio call of a vandalism suspect who had returned to 6233 Elmer Avenue. The suspect, Oktawian Balenkowski; hereafter referred to as Oktawian, had earlier thrown a bottle and rock at the residence.²

The officers verbally contacted Oktawian, who was next door at 6229 Elmer Avenue in the front yard of his parents' residence. At the time, Oktawian's parents had an active restraining order against him. Oktawian ignored an officer's request to exit the yard and speak with them. Oktawian fled to the backyard and entered his parents' residence. Oktawian's father opened the front door and allowed officers to enter the residence. Oktawian appeared to be under the influence of narcotics and in a state of excited delirium. After attempting to de-escalate the situation, officers utilized twist locks, firm grips and bodyweight to take Oktawian into custody for the restraining order violation. The Los Angeles Fire Department (LAFD) transported Oktawian to Sherman Oaks Hospital for treatment of agitated delirium. Once at the hospital, Oktawian was placed in soft restraints and sedated by medical staff.

Approximately 17 hours later, medical staff determined Oktawian had a dislocated right elbow and rhabdomyolysis. He was subsequently admitted for treatment. Medical staff was ultimately unable to determine if Oktawian's injury and medical condition were caused by the use of force.

Investigative Summary

On Sunday, January 5, 2020, at approximately 0136 hours, Oktawian threw a plastic bottle and a rock at the residence of 6233 Elmer Avenue. The resident, Marvin Martinez, called 911 and reported the incident.

OIG Note No. 1: *Martinez's call for service was the second of three calls involving Oktawian in less than 12 hours. The first call was a Day Watch call on January 4, 2020 at 1717 hours that was handled by Watch 2. The comments of that call advised, "Son Octavian [sic] M/W 40 yrs, tall, gry shirt, blu pants, suffers from schizophrenia, under influence of narco, hallucinating, no weapons."*

¹ The Incident Summary presented here is reproduced from FID's report regarding this case, and is supplemented with annotations by the OIG. All OIG annotations are referenced as an "OIG Note." All other references and citations in the reproduced FID Incident Summary (e.g., Investigators' Notes or Addenda Items) are reproduced directly from FID's report. Unless otherwise stated, all information provided in OIG annotations is derived from FID's investigation of this incident.

² Oktawian Balenkowski, 5 feet 8 inches tall, 240 pounds, 38 years of age.

The caller was Oktawian's father, Tomasz Balenkowski. Responding officers met with Tomasz; however, Oktawian had left prior to their arrival. Tomasz told them that Oktawian had been visiting and was under the influence of methamphetamine. That call was cleared at 1903 hours. The LERI at issue occurred during the third call for service and involved officers from Watch 3.³

At 0154 hours, Communications Division (CD) broadcast, "Any North Hollywood unit, vandalism suspect 6233 Elmer Avenue, Code Two, Incident 370, RD 1527."⁴



[Image from security video at 6233 Elmer Avenue]

At 0221 hours, Police Officers II Claudia Guillen, Serial No. 42402, and Arianna Topete, Serial No. 41946, placed themselves Code Six on the call and met with Martinez. Martinez stated his family checked security video footage after hearing objects impact their residence. After reviewing the footage, they determined their neighbor Oktawian had thrown items at their home. Martinez also advised the officers that Oktawian had drug and mental illness problem.

After determining that there was no damage to the residence, the officers advised Martinez to seek a restraining order against Oktawian. While the officers were still at scene, Oktawian walked past the residence in the roadway. According to Officer Guillen, Oktawian was walking at a fast pace with a blank stare. Additionally, Officer Topete described him as looking agitated.

Based on their observations, Officer Topete broadcast a request for an additional unit so they could contact Oktawian. In response to their request, Police Officer III Sonia Rodriguez, Serial No. 38964, and Police Officer I Ismael Silva, Serial No. 44074, and

³ Email from FID to the OIG, received on 10/30/20.

⁴ All responding officers were in uniform and assigned to North Hollywood Patrol Division. All broadcasts were made on North Hollywood Base Frequency.

Police Officer II Jonathan Duplechein, Serial No. 41945, and Police Officer I Vaughn Ripplinger, Serial No. 43814, and Sergeant I Roberto Morales, Serial No. 30184, responded.⁵

Officers Topete and Guillen informed responding officers that there was no damage to the residence and no crime committed, but Oktawian appeared to be under the influence of narcotics. When the additional units arrived, Oktawian was no longer in the area.

OIG Note No. 2: Officers Topete and Guillen briefed Officer Rodriguez on the circumstances of the call, including information about the previous call regarding Oktawian and its disposition.⁶

At 0329 hours, Martinez called 911 again reporting that Oktawian had returned and was yelling in the street near their residence. Martinez relayed that Oktawian had thrown rocks at their house earlier and believed Oktawian was on drugs. At 0335 hours, CD broadcast, “Any North Hollywood unit, vandalism suspect there now, 6233 Elmer Avenue, one house south of the location, suspect is a neighbor, male White, under the influence of an unknown substance, has returned to the location, under additional Code Two incident 630 RD 1527.”

Officers Rodriguez and Silva requested the call and arrived at 0346 hours.⁷ Approximately one minute later, Officers Guillen and Topete arrived. Both units placed themselves at scene via their Mobile Digital Computers. Officer Rodriguez observed Oktawian inside of the gated courtyard at 6229 Elmer Avenue, yelling and pacing back and forth at the front porch. Officer Rodriguez was aware that Oktawian’s parents lived at the location and that they had a restraining order against him.

OIG Note No. 3: Officer Rodriguez verbalized to the other officers that she was not sure whether the restraining order was still valid.⁸ Officer Guillen

⁵ Officers Guillen and Topete were assigned to Unit 15A21. Officer Guillen, 3 years, 11 months with the Department, 5 feet tall and 130 pounds. Officer Topete, 5 years with the Department, 4 feet 11 inches tall and 115 pounds. Officers Rodriguez and Silva were assigned to Unit 15A27. Officer Rodriguez, 12 years, 9 months with the Department, 5 feet tall and 135 pounds. Officer Silva, 6 months with the Department, 5 feet 9 inches tall and 165 pounds. Sergeant Morales, 29 years, 3 months with the Department, 5 feet 10 inches tall and 178 pounds. He was assigned to unit 15L20. Each of the above personnel were wearing ballistic vests and Body Worn Video (BWV) cameras. They were also equipped with a Department-approved handgun, Oleoresin Capsicum (OC) spray, handcuffs, and a Hobble Restraint Device (HRD). Additionally, Officer Topete was equipped with a beanbag shotgun.

⁶ Officer Rodriguez’s BWV, 10:43:09-10:46:08.

⁷ Officer Rodriguez stated that while en route she and Officer Silva discussed tactical de-escalation and tactical disengagement. Additionally, Officer Rodriguez stated she would be the contact officer, and Officer Silva would be the cover officer.

⁸ Officer Rodriguez’s BWV, 11:50:16.

later conducted a records check of Oktawian on her MDC and confirmed that the order and the associated conditions were valid.^{9,10}

Additionally, Officer Rodriguez advised the other officers that she recognized Oktawian from a prior restraining order violation arrest at the same location.¹¹

Officer Rodriguez directed Oktawian to walk out of the courtyard to speak with her. He did not comply, and instead ran north to a block wall that separated the property from 6233 Elmer Avenue. Oktawian ran west, on top of the wall, into the backyard of his parents' residence.



[Image from Officer Rodriguez' BWV of her initial contact with Oktawian].¹²

⁹ Officer Guillen, Page 16, Lines 6-17.

¹⁰ The investigation revealed that a "Criminal Protective Order – Domestic Violence" was requested by Oktawian's father, Tomasz. The order was issued on 07/26/17, with an expiration date of 02/06/20. A modification was issued on 12/10/19, which extended the order to 09/23/22. Amongst the conditions associated with the order was that Oktawian was permitted to have "peaceful contact" with Tomasz "away from father's residence." The order and its conditions were automated and accessible to the officers via computer. (Los Angeles Superior Court, Northwest District (Van Nuys), Court Case Nos. 7VW00369 and 9VW05474.) Copies of the Restraining Order and its modification were supplied to the OIG by FID on 10/26/20.

¹¹ On July 22, 2019, Oktawian was arrested for Contempt of Court at 6229 Elmer Avenue, DR No. 1915-14568.

¹² Unless otherwise attributed, all statements, observations and quotations were derived from BWV footage.

Moments later, Oktawian's father, Tomasz Balenkowski, appeared at the front door and alerted the officers that Oktawian was inside the residence.

OIG Note No. 4: *As the officers approached the gate to the residence's front yard, Tomasz could be heard yelling "get out" from the area of the front door, apparently yelling at Oktawian.*¹³

*Upon reaching the front door of the residence, the officers were alerted to Oktawian's presence inside by Tomasz. Simultaneously, Tomasz opened the door wider, stepped back, and extended his right hand/arm, apparently inviting the officers to enter. He then pointed toward Oktawian.*¹⁴

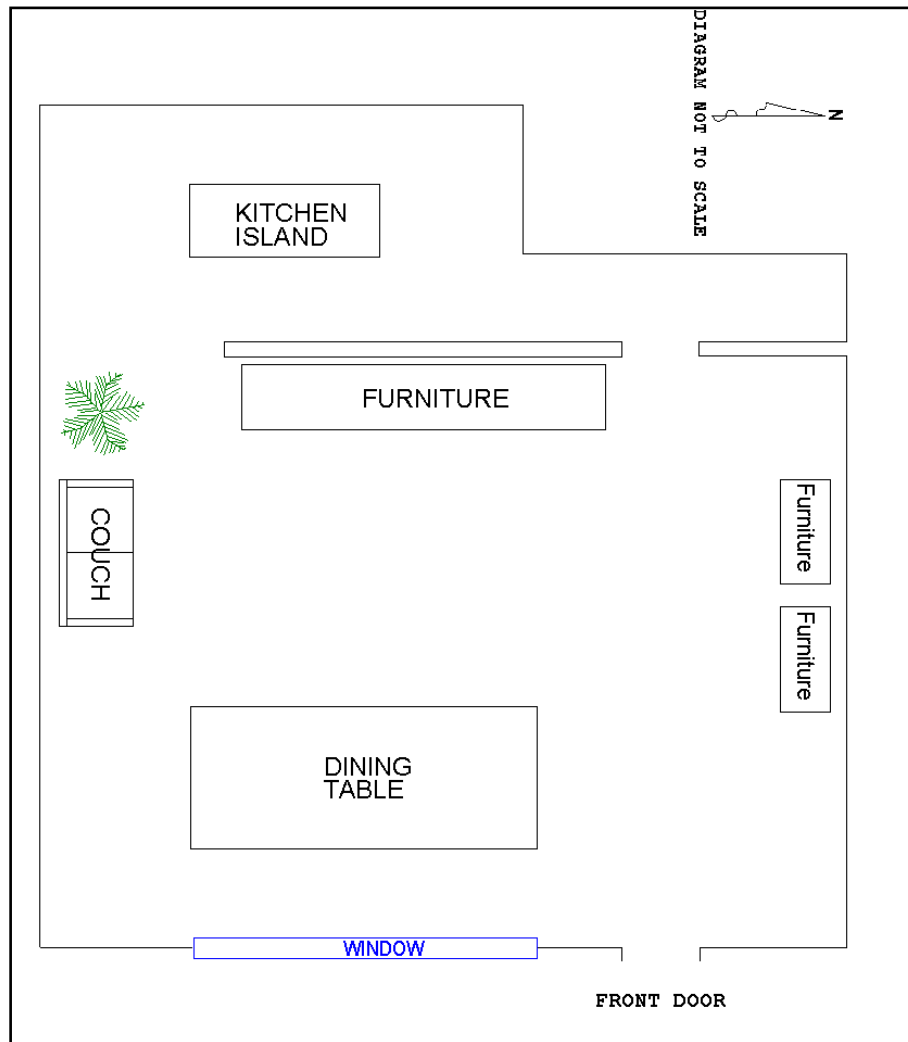
Tomasz stated he was in bed when he heard someone jump his fence and open the back door of his residence. Tomasz observed his son inside the house, in violation of the restraining order.

As the officers moved toward the front door, Officer Rodriguez broadcast a request for a supervisor and asked that one of the officers at scene obtain a beanbag shotgun. Officer Topete heard the request and retrieved a beanbag shotgun from her police vehicle, while Officers Rodriguez, Guillen and Silva approached the front door.

[This space intentionally left blank.]

¹³ Officer Silva's BWV, 11:50:23.

¹⁴ Officer Silva's BWV, 11:50:31.



[A diagram of the interior of 6229 Elmer Avenue]

While standing at the front door, Officer Rodriguez asked Tomasz where his wife was located; he indicated she was inside the residence. As this was occurring, Oktawian was kneeling in the dining room and saying, “*Please, I don’t want to go to jail.*” Officer Rodriguez ordered Oktawian to exit the residence, but he did not comply.

OIG Note No. 5: *Officer Rodriguez did not specify whether she was requesting Oktawian or Tomasz to exit the residence at this point. Neither Oktawian nor Tomasz exited, and Officer Rodriguez did not follow-up on this request.*¹⁵

As the officers entered the residence, Oktawian stood up and walked into the kitchen area.

¹⁵ Officer Rodriguez’s BWV, 11:50:45.

Officers Rodriguez and Silva followed behind Oktawian. As they continued to illuminate him with their flashlights, Officer Rodriguez told Oktawian to “relax” and that she needed to see his hands. Oktawian raised his hands and walked behind the kitchen island and shouted, “I’m so sorry ... I don’t want my life to be over ... Please don’t kill me.” Officer Rodriguez then requested a backup. Police Officers II David Nguyen, Serial No. 39229, Elizabeth Cairns, Serial No. 42457, Lizbeth Luna, Serial No. 41531, and Police Officer I Shelby Kowalczyk, Serial No. 43644, responded to the backup request.¹⁶

OIG Note No. 6: Sergeant Morales went Code-Three and also responded to the scene.



[Image from Officer Rodriguez’ BWC depicting her contact with Oktawian in the kitchen]

Approximately one minute later, Oktawian moved into the dining room as his mother, Urszula Balenkowski, emerged from the hallway and hugged him. According to Urszula, she did this in an attempt to calm him down. Oktawian hugged his mother while repeatedly shouting, “They’re gonna kill all of us.”

From Officer Rodriguez’ position, she could see Urszula interacting with her son and did not believe she was in any danger.

¹⁶ Officers Nguyen and Kowalczyk were assigned to unit 15A39. Officer Nguyen, 11 years, 11 months with the Department, 5 feet 8 inches tall and 150 pounds. Officer Kowalczyk, 1 year, 4 months with the Department, 5 feet 4 inches tall and 128 pounds. Officers Cairns and Luna were assigned to unit 15A85. Officer Cairns, 3 years, 9 months with the Department, 5 feet 4 inches tall and 120 pounds. Officer Luna, 6 years with the Department, 5 feet 6 inches tall and 150 pounds. Each officer was wearing a ballistic vest and a BWC camera. They were also equipped with a Department-approved handgun, OC spray, handcuffs. Officer Nguyen had his HRD in the trunk of his vehicle. The other officers had an HRD on their person.

Officer Rodriguez observed Urszula attempting to calm Oktawian by speaking to him in Polish and by rubbing his back in a comforting manner. Officer Rodriguez believed Urszula's actions could be meaningful in de-escalating the situation.

OIG Note No. 7: *After hugging Urszula for several minutes, Oktawian appeared to begin squeezing her more tightly. He then started to move backwards, pulling Urszula along with him for several steps.*

According to Officer Rodriguez, she “constantly assess[ed]” the situation for signs of danger to Urszula. Officer Rodriguez was familiar with Urszula from past contacts, and she constantly watched Urszula’s “hands and face”; she did not believe Urszula was in any danger as she (Urszula) attempted to “de-escalate” the situation. Officer Rodriguez eventually could be heard telling Oktawian, “You need to let her go.”¹⁷



[Image from Officer Silva's BWV depicting Urszula attempting to calm Oktawian]

At 0354 hours, Sergeant Morales entered the residence.

¹⁷ Officer Rodriguez's BWV, 11:53:35-11:54:53.

OIG Note No. 8: Upon Sergeant Morales's arrival, he was given a quick briefing by Officers Guillen and Topete while he stood just outside the front door. Officer Guillen told Sergeant Morales that Oktawian was "just flipping out." She also told him that Oktawian "snatched mom and doesn't want to let her go." Officer Guillen added that there was a restraining order against Oktawian and that no officers had physically touched him thus far. Officer Topete told him that she possessed a beanbag shotgun, and Sergeant Morales confirmed with her that she would be less-lethal. Sergeant Morales then instructed Officer Guillen to brief additional officers as they arrived.¹⁸

Officer Rodriguez advised him there were no known weapons involved and that according to Tomasz, Oktawian was in violation of a restraining order. According to Sergeant Morales, he positioned himself in the middle of the dining room behind the officers and continued assessing the situation. Soon after, Officer Rodriguez approached Urszula and grasped the back of her clothing while asking her to step away from Oktawian; Urszula complied.

At approximately 0355 hours, Police Officers II Alexander Simon, Serial No. 42736, Brian Van Gorden, Serial No. 38119, and Officers Duplechein and Ripplinger arrived and positioned themselves near the front door. According to Officer Duplechein, Oktawian was sweating and irate. He believed Oktawian's thought patterns were consistent with someone who was mentally ill or under the influence of methamphetamine.¹⁹

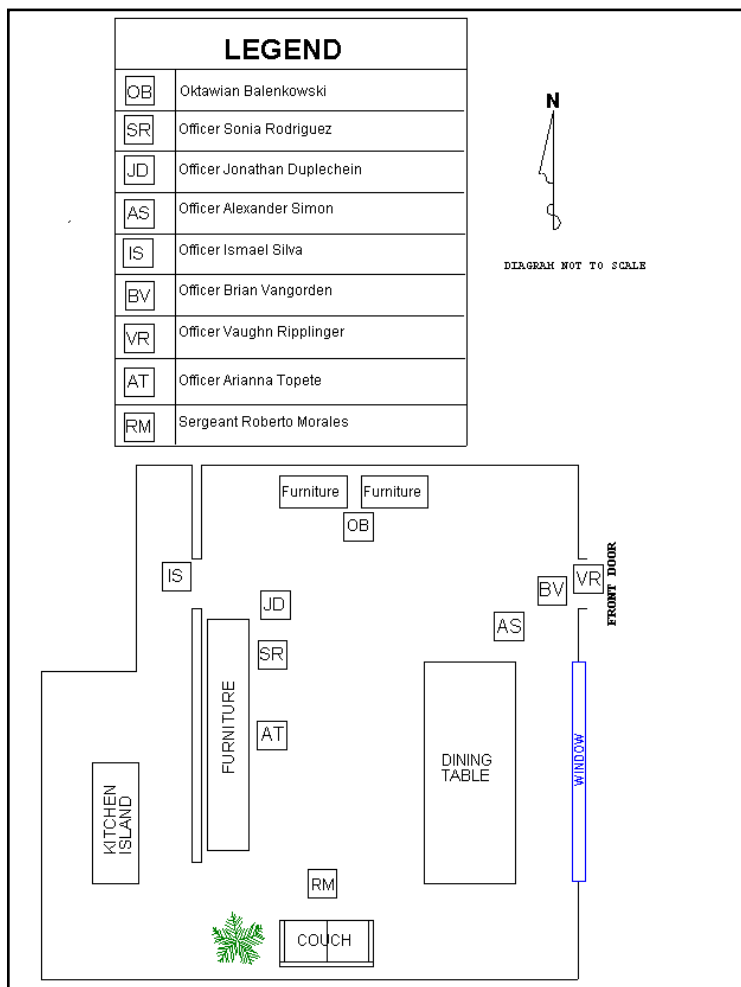
According to Officer Rodriguez, while interacting with Oktawian, she called him by his first name, reminding him that they knew each other from a prior incident and assured him they were not there to hurt him. She also maintained her distance from Oktawian and kept her hands away from her police equipment to avoid causing him fear.

Officer Rodriguez told Oktawian she was going to be fair with him and directed him to turn around and place his hands behind his back. According to Officer Rodriguez, she intended to get Oktawian out of the residence so that he would have less access to potential weapons. Officer Rodriguez communicated her plan to Sergeant Morales. According to Sergeant Morales, he agreed with this plan, because it would make for a less cluttered environment.

¹⁸ Officer Guillen's BWV, 11:53:37-11:54:05.

¹⁹ Officers Simon and Van Gorden were assigned to Unit 15A67. Officer Simon, 3 years, 10 months with the Department, 5 feet 7 inches tall and 165 pounds. Officer Van Gorden, 13 years, 7 months with the Department, 5 feet 9 inches tall and 200 pounds. Officer Duplechein, 5 years with the Department, 5 feet 10 inches tall and 180 pounds. Officer Ripplinger, 1 year, 1 month with the Department, 5 feet 7 inches tall and 160 pounds. Each officer was wearing a ballistic vest and a BWV camera. They were also equipped with a Department-approved handgun, OC spray, handcuffs, and an HRD.

While Officer Rodriguez continued communicating with Oktawian, Officer Topete moved farther into the residence with the beanbag shotgun. Simultaneously, Officer Duplechein moved from the front door of the residence to the dining room and positioned himself near Officer Rodriguez on Oktawian's right side. Oktawian refused to step outside and continued yelling at the officers in a rapid and agitated manner, while emphatically moving his hands and arms.



[Diagram depicting the location of each party prior to the use of force.]

Despite repeated attempts by Officer Rodriguez to calm Oktawian over the span of approximately nine minutes, he remained uncooperative and defiant. Officer Duplechein believed Oktawian might respond to a different voice and tried to talk with him. However, as Officer Duplechein began to speak, Oktawian faced him and yelled, *"No, you are not in charge!"* Officer Duplechein directed Oktawian to turn around and explained that if he did not comply, he would be handcuffed and more than likely end up on the ground. Oktawian continued to yell at Officer Duplechein and was emphatic that the officers needed to leave his residence. Based on Oktawian's demeanor, Officer Duplechein did not believe further attempts to communicate with Oktawian would be effective.

Officer Duplechein recognized that they were in a confined area and that Oktawian was wearing baggy clothing and had not been searched for weapons. At that point, Officer Duplechein decided to grab Oktawian to prevent him from potentially reaching into his pockets for a weapon.

OIG Note No. 9: *Nearly five minutes elapsed from the time when Officer Rodriguez told Sergeant Morales of her plan to get Oktawian outside of the residence to the time when officers made physical contact with Oktawian. During that time, there was no indication that using additional tactics, forming an arrest team, or contacting the Mental Evaluation Unit were discussed. Meanwhile, Sergeant Morales spoke with Oktawian's parents to get additional information as to his mental status while continually trying to calm him down.²⁰*

Officer Duplechein stepped toward Oktawian and placed his left hand on Oktawian's right elbow while also grabbing the back of Oktawian's right hand. Officer Duplechein then applied a wrist lock and guided Oktawian's right hand to his lower back. Simultaneously, Officer Silva assisted Officer Duplechein by placing his right hand on Oktawian's right tricep and his left hand on Oktawian's right wrist.

As Officers Duplechein and Silva attempted to control Oktawian's right arm, Officer Simon placed his left hand on Oktawian's left arm while he simultaneously placed his right hand on Oktawian's left wrist. According to Officer Simon, he intended to place Oktawian's left arm behind his back for handcuffing.

Note: When interviewed Officer Simon mistakenly believed he grabbed Oktawian's right wrist with his right hand.

Oktawian became rigid and began walking forward, causing Officer Simon to lose his grip of the left arm. Officer Ripplinger then assisted by grabbing Oktawian's left arm.

[This space intentionally left blank.]

²⁰ Sergeant Morales's BWV, 11:55:32-11:59:17.



[Image from Officer Rodriguez' BWV moments before prior to the Use of Force.]

Oktawian continued moving forward toward a leather couch. In an effort to slow Oktawian's momentum, Officer Rodriguez stated she placed her right hand on the right side of Oktawian's chest and her left hand on Oktawian's right arm. Oktawian continued moving forward, causing Officer Rodriguez to fall on her right knee near the couch.²¹



[Photo of the leather couch]

Officers Duplechein, Silva, and Ripplinger were still holding onto Oktawian's arms as he fell forward onto the couch. As Oktawian's upper body came to rest on the seat cushions, his knees and lower body remained on the floor. While Officer Nguyen used both hands to hold Oktawian's right ankle, Officer Simon placed his right knee on the back of Oktawian's right thigh and applied bodyweight. According to the officers, they

²¹ At 03:59:41 hours, Officer Rodriguez' BWV became dislodged from her uniform and fell to the floor. She placed it back onto her uniform at 04:04:45 hours.

observed Oktawian moving his legs and both applied bodyweight in an effort to control them.

Note: When interviewed, Officer Simon mistakenly believed he placed his left knee on the back of Oktawian's right thigh.

According to Officer Ripplinger, Oktawian attempted to stand. To prevent him from doing so, he applied pressure to Oktawian's left shoulder with his left hand while maintaining control of Oktawian's left wrist with his right hand. Simultaneously, Officer Rodriguez applied pressure to the back of Oktawian's right shoulder with her right forearm. Officer Ripplinger then advised the other officers that he had control of Oktawian's left arm so they could focus their efforts on Oktawian's right arm and take him into custody as quickly as possible.

Oktawian was still lying on the couch when Officer Duplechein applied a wrist lock to his right hand and maintained it behind his back for handcuffing. According to Officer Duplechein, he performed the wrist lock by placing his hand on top of Oktawian's right hand and by flexing it toward Oktawian's inner forearm. Officer Duplechein was not certain that he would be able to maintain control of the wrist lock based upon Oktawian's size and transitioned to a two-handed grip around Oktawian's right forearm.²²

As Oktawian was being taken into custody, Sergeant Morales stood near the couch and monitored the officers. Sergeant Morales ordered Oktawian to give the officers his hands and directed the officers to handcuff Oktawian.

Officer Silva attempted to place a handcuff on Oktawian's right wrist, however the cuff got caught on Oktawian's right jacket sleeve. Officer Simon observed Officer Silva struggling to handcuff Oktawian and assisted by applying a wrist lock to Oktawian's right hand. While the wrist lock was maintained, Officers Simon and Silva moved Oktawian's jacket sleeve upward, which allowed Officer Silva to then fasten the handcuff around Oktawian's right wrist. [According to Officer Simon, he was not sure if he then maintained control of Oktawian's wrist with the handcuff or if he maintained the wrist lock.]²³

Once Oktawian's right hand was cuffed and being held by Officer Simon, Officer Duplechein transitioned to assist Officer Ripplinger with securing Oktawian's left wrist. Officer Duplechein placed two hands around Oktawian's left wrist and moved it from his

²² Unless otherwise noted, the term wrist lock will be used in this report to refer to the placing of an officer's hand on top of Oktawian's hand and flexing it toward his inner forearm.

²³ At 04:00:30 hours, Officer Silva's BWV camera became dislodged from his uniform and fell to the floor. At 03:59:22 hours, Officer Simon's BWV camera became dislodged from his uniform and fell to the floor. At 04:02:20 hours, Officer Silva recovered Officer Simon's BWV camera and mistakenly attached it to his uniform. At 04:03:50, Officer Simon recovered Officer Silva's BWV camera and mistakenly attached it to his uniform. Officers Simon and Silva unknowingly wore the wrong BWV cameras for the remainder of the incident.

stomach area to behind his back. Officer Duplechein then used his right hand to grip Oktawian's left hand and used his other hand to slide Oktawian's left sleeve past his wrist. Officer Van Gorden utilized a second pair of handcuffs to secure Oktawian's left wrist and then joined the two sets of handcuffs.²⁴



[Image from Sergeant Morales' BWV as the second handcuff is applied]

After the handcuffs were applied, Oktawian remained in a face down position and was still attempting to kick his legs.²⁵ In an effort to prevent that from continuing, Officer Cairns grabbed Oktawian's right calf; Officer Nguyen placed both of his knees on Oktawian's left ankle; Officer Kowalczyk placed her left shin on Oktawian's left hamstring while also placing both of her hands on the back of Oktawian's legs. Sergeant Morales then directed the officers to hobble Oktawian. Officer Cairns released her grip on Oktawian's right leg as she and Officer Kowalczyk retrieved their respective hobbles. Officer Nguyen then removed his knees from Oktawian's left ankle and used his hands to bring Oktawian's ankles together.

Note: When interviewed, Officer Nguyen believed he wrapped both his arms and legs around Oktawian's legs. On the officers' BWV, Officer

²⁴ Approximately one minute and 20 seconds elapsed from when Officer Duplechein first made physical contact with Oktawian and when he was handcuffed.

²⁵ At 03:59:31 hours, Officer Duplechein's BWV camera became dislodged from his uniform and fell to the floor. At 04:02:40 hours, Officer Duplechein retrieved his BWV camera and inadvertently placed it upside down on his uniform.

Nguyen is only observed using his hands and knees to secure Oktawian's ankles.

As Officer Kowalczyk maintained her bodyweight on Oktawian's left hamstring, she and Officer Cairns placed an HRD around Oktawian's crossed ankles and a second HRD above his knees. Approximately 10 seconds after the hobbles were secured, Officers Simon, Ripplinger, and Rodriguez moved Oktawian into a seated position, with his legs extended in front of him.²⁶

After Oktawian was placed in the seated position, Officer Simon positioned his right knee behind Oktawian's back. According to Officer Simon, he did this to support Oktawian so that he would not bump his head and or injure himself. Similarly, Officer Ripplinger crouched behind Oktawian and placed his left hand on the back of Oktawian's neck while holding his right wrist with his right hand. According to Officer Ripplinger, he placed his hand on the back of Oktawian's neck without applying any force. He did this in an effort to stabilize Oktawian and prevent him from falling backward.

At 0401 hours, Officer Topete requested a Rescue Ambulance (RA) believing Oktawian was possibly under the influence of an unknown narcotic. Prior to the arrival of the RA, Oktawian was rolled into a recumbent position on his right side. Officer Kowalczyk repositioned herself behind Oktawian and placed her hands on his left arm, while Officer Ripplinger placed his left arm on Oktawian's left wrist.

Officer Nguyen maintained control of the lower hobble and placed his left shin across Oktawian's lower legs. Officer Cairns maintained control of the upper hobble and placed her left knee on Oktawian's left thigh.

Officer Cairns indicated she was aware Oktawian was lying on his right side, however repositioning him to his left side was not feasible due to his large size and the small confines of the room.²⁷ Regarding this, Officer Cairns stated, "*...the reason we put him on the right side was because there was not -- it would have been too difficult, the size of him, how many officers, the space of the room, there was a dresser, a table, a Christmas tree. The room was small. So, to try and get all the officers over to the other side and to roll him over was just next to impossible.*"²⁸ Sergeant Morales gave a similar explanation and stated he did not want to reposition Oktawian to his left side because of the small area they were in.

²⁶ Approximately four minutes later, Officers Ripplinger and Cairns ensured the handcuffs were double locked.

²⁷ At 0409 hours, prior to the arrival of LAFD, Officers Duplechein and Simon conducted a search of Oktawian's clothing; no weapons, narcotics or other contraband was discovered.

²⁸ Statement of Officer Cairns, Page 10, Line 21 through Page 11, Line 2.

OIG Note No. 10: As described by Sergeant Morales, “My officers rolled him to the right side. It was like the most convenient due to the space that we had there.”²⁹

At approximately 0410 hours, Officer Duplechein rolled Oktawian into a prone position so Officer Cairns could double lock the handcuffs that conjoined the cuffs on Oktawian’s wrists. Oktawian remained in this position for approximately 40 seconds before he was returned to his right side.



[Image from Officer Cairns’ BWV as the center cuffs were double locked]

OIG Note No. 11: A review of various angles from several officers’ BWVs was inconclusive as to whether Oktawian was in the prone position for a full 40 seconds at this point during the incident. It appeared that Oktawian was in a slightly-twisted position for some part of that time, with his upper torso nearly flat on the floor and his lower torso further off of the floor.³⁰

At 0412 hours, LAFD Firefighter Paramedics (FFPM) Thomas Andrews and Scott Luft, who were assigned to RA No. 60, entered the living room with a gurney. In a coordinated effort, Officers Duplechein, Kowalczyk, Nguyen and Cairns lifted Oktawian onto the gurney and placed him into a seated position. Oktawian was then wheeled out of the residence. Once outside Officers Nguyen and Simon cuffed Oktawian’s right hand to the right rail of the gurney; Officer Cairns cuffed his left hand to the left rail of the gurney. The hobble around Oktawian’s ankles was removed and replaced with soft restraints by LAFD. The hobble above Oktawian’s knees remained in place and was ultimately removed at the hospital. Officers Simon and Silva accompanied Oktawian in the RA, while Officer Van Gorden followed in his police vehicle.

²⁹ Statement of Sergeant Morales, Page 23, Lines 24-25.

³⁰ Officer Cairns’s BWV, 12:09:58-12:10:39; Officer Silva’s BWV, 12:10:11-12:10:36; and Officer Nguyen’s BWV, 12:10:03-12:10:35.

According to FFPs Luft and Andrews, Oktawian was transported to Sherman Oaks Hospital for a drug overdose and agitated delirium. Neither FFP observed Oktawian to be injured; however, FFP Luft noted that Oktawian was too uncooperative to complete a proper check. Prior to transporting Oktawian to the hospital, FFP Luft gave Oktawian an injection of Midazolam in an effort to calm him down.³¹

At approximately 0353 hours, Sergeant I Chase Hooper, Serial No. 39555, responded to the scene and initiated a Non-Categorical Use of Force Investigation.³² During his investigation, Sergeant Hooper obtained digital photographs and conducted brief interviews of Oktawian's parents (Addendum No. 1).^{33 34}

Note: Force Investigation Division (FID) ultimately assumed the investigative responsibility prior to Sergeant Hooper completing the Non-Categorical Use of Force Report.

At 0435 hours, Oktawian arrived at Sherman Oaks Hospital. At the request of hospital staff, Officers Simon and Van Gorden removed Oktawian's handcuffs from the gurney to allow for his transfer to a hospital bed. Oktawian was moved to the hospital bed and the officers fastened the handcuffs to the bed rails, while hospital staff members prepared to place Oktawian in soft restraints.

As medical staff took over, Officer Silva observed a male staff member take control of Oktawian's right arm. Oktawian appeared to resist the male staff member and attempted to stand up. Officer Silva then observed the male staff member place his left arm on Oktawian's right shoulder and push him down aggressively onto the bed.³⁵ Medical staff members ultimately fastened each of Oktawian's ankles to the bottom of the bed, his left arm to the left side of the bed and his right arm to the top of the bed. Neither officer was involved in the application of the restraints.

Force Investigation Division investigators reviewed Oktawian's medical records from Sherman Oaks Hospital and determined Emergency Department Registered Nurse (RN) Arner Parsekhian, completed the initial assessment of Oktawian. The records indicated that Oktawian's chief complaint upon intake was for methamphetamine use and erratic behavior. No musculoskeletal disorders were noted at that time. When

³¹ Midazolam is a sedative.

³² At the time of Sergeant Hooper's investigation, there was no indication Oktawian had sustained any injuries or that he was going to be admitted to the hospital.

³³ Sergeant I Christian Mejia, Serial No. 40255, was not a witness to the use of force. He assisted Sergeant Hooper by taking photographs of Oktawian in the RA prior to transportation.

³⁴ Sergeant Hooper's interview with Oktawian's parents was recorded on BWV and is part of the Evidence.com case folder. Sergeant Hooper was unable to interview Oktawian due to his agitated state.

³⁵ Force Investigation Division investigators interviewed Emergency Department Physician Kendrick Law, and admitting Physician Edmond Derderian, but were unable to identify the person referred to by Officer Silva.

contacted by FID investigators, RN Parsekhian stated he did not independently recall assessing Oktawian and declined to be formally interviewed (Addendum No. 2).

Emergency Department Physician Kendrick Law stated he conducted a head to toe assessment of Oktawian and physically palpated Oktawian's body for injuries. No fractures or dislocations were detected. Doctor Law recorded his findings at 0453 hours.³⁶ Additionally, Doctor Law noted Oktawian was administered Ativan, a sedative given to agitated patients.

According to the medical records, at 1730 hours, approximately 13 hours after arriving at Sherman Oaks Hospital, Oktawian complained of pain to his right wrist, which was still secured with a soft restraint. A series of X-rays were completed and at 2134 hours, it was determined that Oktawian had a posterior dislocation of his right elbow. At approximately 2300 hours, Emergency Department Physician Molly Brady performed a right elbow relocation. Upon waking from sedation, Oktawian continued to be agitated and in an altered state of mind. According to the medical records, Oktawian continued to bend his right arm, which likely caused a repeated dislocation of the right elbow.

At 2330 hours, Oktawian was discharged from the Emergency Department and admitted to Sherman Oaks Hospital for a right elbow dislocation, rhabdomyolysis, transaminitis, and amphetamine abuse.³⁷ According to admitting Physician Edmond Derderian, Oktawian was treated for rhabdomyolysis and received an orthopedic consultation. On January 8, 2020, Oktawian was discharged from the hospital.

On January 6, 2020, at 0330 hours, North Hollywood Patrol Division Watch Commander Lieutenant Peter Gillies, Serial No. 26963, was informed by officers guarding Oktawian that he had been admitted to the hospital for an elbow injury, narcotics ingestion, and rhabdomyolysis.³⁸ Lieutenant Gillies contacted FID and at approximately 0645 hours, FID investigators responded to Sherman Oaks Hospital. Force Investigation Division detectives confirmed that Oktawian was admitted for a dislocated elbow and began investigating the incident as a Categorical Use of Force.

Scene Description

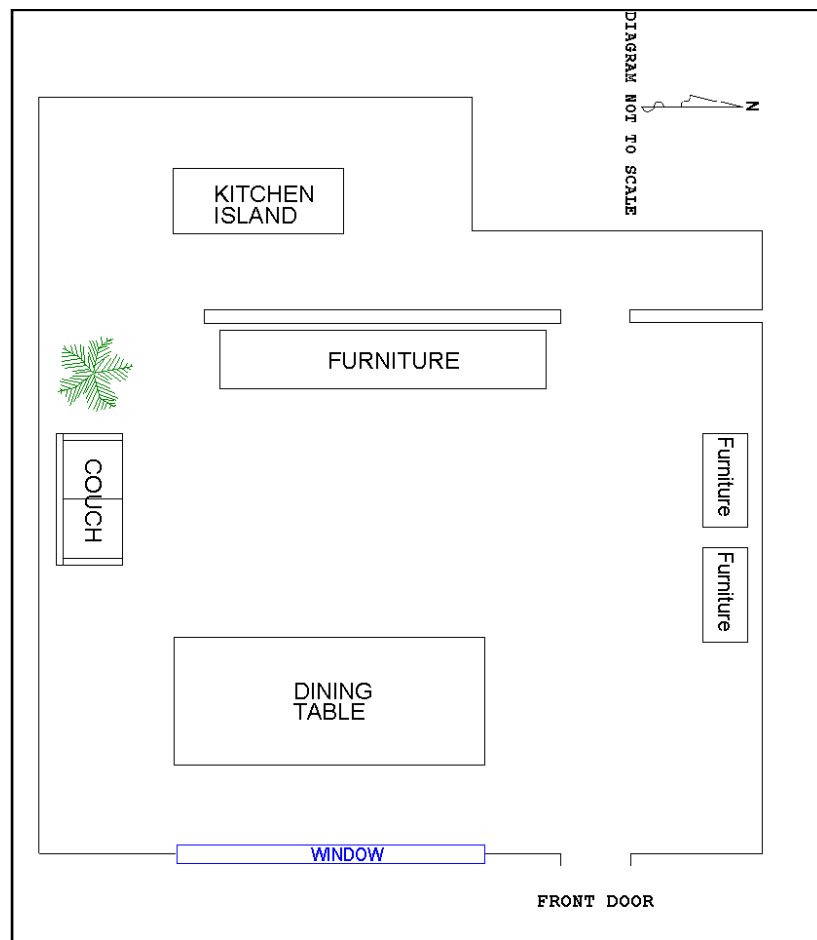
The residence where the use of force occurred was located at 6229 Elmer Avenue in the City of Los Angeles on the west side of the roadway. Elmer Avenue is a north/south roadway with a single lane of traffic in each direction with vehicle parking along the east and west sides of the road. There were no curbs or sidewalks on this street. The neighborhood consisted of single-family residences. The 6200 block of Elmer Avenue was bordered by Erwin Street to the south and Sylvan Street to the north.

³⁶ The time Doctor Law actually conducted his assessment was not recorded in Oktawian's medical record.

³⁷ Rhabdomyolysis is defined as a breakdown of skeletal muscle due to direct or indirect muscle injury.

³⁸ This information was derived from Lieutenant Gillies' Watch Commander Daily Report.

The front of the residence was surrounded by an approximately four-foot-tall wrought iron fence that was lined with shrubs. The yard was accessed through a five-foot tall gate in the middle of the property. A seven-foot tall cement block wall separated 6229 Elmer Avenue from the property to the north.³⁹ There was an eight-foot tall gate on the north side of the property separating the front and backyard. The front door faced east and lead directly into the dining room.



The use of force occurred in the dining room located at the front of the residence. The dining room contained various pieces of furniture including a couch along the south wall. The connected kitchen was located on the west side of the dining room. Additionally, the kitchen was accessible from the dining room via a hallway to the north side. There was an island in the center of the kitchen.

³⁹ The property to the north was 6233 Elmer Avenue, the location of the vandalism.

Canvass for Witnesses

On January 21, 2020, FID investigators canvassed the area of 6229 Elmer Avenue for witnesses. Unless otherwise noted, the statements of all witnesses were recorded and transcribed and are contained within this report.

Force Investigation Division investigators met with RN Parsekhian, who stated he triaged and screened Oktawian upon entry to the hospital. Parsekhian documented his findings in the medical record. Parsekhian did not have an independent recollection of treating Oktawian and declined to be formally interviewed. Based on the medical records, there was no indication that Oktawian had a dislocated elbow upon entry to the hospital.

Suspect Description



Oktawian Balenkowski is a male White with green eyes and brown hair. At the time of the incident, he was five feet, eight inches tall, weighed 240 pounds, and had a date of birth of January 7, 1981.

Oktawian was identified by CII No. A29734965. At the time of the incident, he was on misdemeanor probation for violation of a protective order. He had eleven prior arrests dating back to 2008. Nine arrests were for violation of a court order, one arrest was for trespassing, and one arrest for possession of a dangerous weapon. He had 19 prior Mental Evaluation Unit contacts (Addendum No. 3).

On January 5, 2020, Officer Rodriguez completed an Investigative Report (IR) for a Restraining Order Violation (DR No. 2015-04254), which was later presented to the Los Angeles City Attorney's Office. On February 7, 2020, the City Attorney filed the charges of Contempt of Court and Violation of a Protective Order. The court case remains pending (Addendum No. 4).

On January 6, 2020, FID investigators interviewed Oktawian at the hospital. Oktawian stated he is bipolar and schizophrenic. Oktawian said that on the night of the incident, he was high on methamphetamine, in a state of paranoia, and hearing voices. Oktawian stated he entered his parents' residence to warn them *"that they we're going to be dead."*⁴⁰ Oktawian stated the officers asked him to step out of the residence but feared if he did so, he would be killed or arrested. Oktawian admitted to struggling with the officers for approximately three minutes and stated that during the struggle, somebody broke something on his head.

⁴⁰ Statement of Oktawian Balenkowski, Page 13, Line 11.

Note: None of the officers reported striking Oktawian. Additionally, a review of BWV did not depict Oktawian being struck or having an item broken over his head.

According to Oktawian, after he was handcuffed, a larger male officer placed his knee on his back and purposely twisted and snapped his arm.

OIG Note No. 12: *Oktawian reported that he heard his arm break and “felt the pieces” but did not feel any pain at the time it happened.*⁴¹

Note: During the incident, Officer Simon placed his knee against Oktawian’s back to support him in the seated recovery position. This was the only instance identified of a knee having contact with Oktawian’s back. None of the officers reported, nor where they observed on BWV applying force to Oktawian during that time.

None of the officers involved in this incident reported hearing any sound consistent with Oktawian’s elbow joint being injured. Additionally, at scene Oktawian did not voice or give any visual indication that he had sustained a joint injury.

Injuries

On January 5, 2020, at 0424 hours, LAFD RA No. 60, staffed by FFPM’s Luft and Andrews transported Oktawian to Sherman Oaks Hospital. Oktawian’s chief complaint was for a narcotics overdose and agitated delirium, there was no indication of a dislocated elbow at the time of transportation.

On January 5, 2020, at 0445 hours, Oktawian’s chief complaint upon intake at Sherman Oaks Hospital was methamphetamine use and erratic behavior. Oktawian tested positive for amphetamines. According to the medical records, there did not appear to be any musculoskeletal deformities.

On January 5, 2020, at 2134 hours, an X-ray revealed that Oktawian’s right elbow was dislocated. On January 5, 2020, 2330 hours, Oktawian was admitted to Sherman Oaks Hospital for rhabdomyolysis and an orthopedic consultation (Addendum No. 5).

Officer Silva sustained an approximately half-inch laceration to his left ring finger. Officer Silva stated he was injured during the use of force but did not know how he sustained the injury. He was treated in the field by LAFD personnel.

⁴¹ Oktawian Balenkowski, Page 5, Lines 5-14.

Evidence

Oktawian's clothing was booked at Property Division. No analysis of the clothing was deemed necessary (Addendum No. 6).

Visual Documentation

Digital In-Car Video System (DICVS)

This incident occurred inside the residence located at 6229 Elmer Avenue. Officers Simon and Van Gorden's DICVS, Shop No. 82624, captured audio of the use of force; however, it was not in a position to capture activity outside the residence.

Body Worn Video (BWV)

All of the officers involved in this incident were equipped with BWV cameras.

Force Investigation Division investigators identified the BWVs of 15 officers as being related to the incident. Those videos were reviewed in detail (Issues and Concerns No. 1).

Outside Video:

Force Investigation Division investigators recovered security video from 6233 Elmer Avenue. The video captured the plastic bottle and rock being thrown at the front of the residence. The video was vaulted at Technical Investigation Division (TID) Electronics Section under Control No. 0659400.

Social Media:

Police Officer II John Sewell, Serial No. 36614, assigned to FID's Cyber Unit, monitored social media sites from the date of the incident until the submission of this report. No relevant social media posts were found.

Other Department Video:

No other Department video was located.

Photographs:

On January 5, 2020, Sergeant Hooper photographed the inside of the residence and Sergeant Mejia photographed Oktawian in the RA. The photographs are stored under Control No. 0829784.

Technical Investigation Division Photographer III Karen Coogle, Serial No. V8680, photographed Oktawian in the hospital. The photographs are stored under Control No. 0645389.

[...]

Issues and Concerns

1. The BWVs of the officers included in this administrative summary were reviewed for activation details. The below noted officers had a less than full buffer because their BWVs were powered off while in the field.

- Police Officer II Elizabeth Cairns, Serial No. 42457
- Police Officer II Lizbeth Luna, Serial No. 41531
- Police Officer II Jonathan Duplechein, Serial No. 41945
- Police Officer III Sonia Rodriguez, Serial No. 38964
- Sergeant I Chase Hooper, Serial No. 39555

On August 27, 2020 the Commanding Officer of FID, Captain III Al Pasos, Serial No. 25501, notified the concerned Office Director regarding this issue.

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CHIEF OF POLICE REPORT⁴²

Chief of Police Findings

Tactics – Tactical Debrief, Sergeant Morales and Officers Rodriguez, Silva, Duplechein, Ripplinger, Simon, Cairns, Nguyen, and Kowalczyk.

Non-Lethal Use of Force – In Policy, No Further Action, Officers Rodriguez, Silva, Duplechein, Ripplinger, Simon, Cairns, Nguyen, and Kowalczyk.

Chief of Police Analysis

Detention

- Officers Topete and Guillen responded to 6233 Elmer Avenue for a radio call of a vandalism suspect, later identified as Oktawian, and determined that a vandalism crime had not occurred. Oktawian could not be located and was reported to have appeared to be under the influence or possibly suffering from a mental illness. Approximately one hour later, a second radio call was generated indicating that Oktawian had returned, was yelling in the street, and appeared to be under the influence of an unknown substance. Officers Rodriguez and Silva received the radio call.

Upon observing Oktawian, Officer Rodriguez recognized him and recalled that she had arrested him several months prior to this incident for violating a restraining order. Officer Rodriguez recalled there had been a restraining order on file prohibiting Oktawian from being at his parents' residence at 6229 Elmer Avenue. Officer Rodriguez attempted to verbally contact Oktawian, who fled to his parent's backyard. Moments later, Tomasz opened his front door and advised officers that Oktawian was inside of their residence. Tomasz allowed the officers to enter the residence and indicated there was a restraining order preventing Oktawian from being at the home. The officers detained Oktawian which resulted in a use of force. The actions of Officers Rodriguez, Silva, Guillen, and Topete in detaining Oktawian were appropriate and within Department policies and procedures.

Tactics

- Department policy relative to a Tactical Debrief is: *"The collective review of an incident to identify those areas where actions and decisions were effective and those areas where actions and decisions could have been improved. The intent of a Tactical Debrief is to enhance future performance"* (Los Angeles Police Department Manual, Volume 3, Section 792.05).

⁴² The information provided in this section summarizes the analysis and findings set forth in the Chief of Police's report for this case.

The evaluation of tactics requires that consideration be given to the fact that officers are forced to make split-second decisions under very stressful and dynamic circumstances. Tactics are conceptual and intended to be flexible and incident specific, which requires that each incident be looked at objectively and the tactics be evaluated based on the totality of the circumstances.

Tactical De-Escalation

- Tactical de-escalation involves the use of techniques to reduce the intensity of an encounter with a suspect and enable an officer to have additional options to gain voluntary compliance or mitigate the need to use a higher level of force while maintaining control of the situation.

Tactical De-Escalation Techniques

Planning

Assessment

Time

Redeployment and/or Containment

Other Resources

Lines of Communication (Use of Force - Tactics Directive No. 16, October 2016, Tactical De-Escalation Techniques)

Tactical de-escalation does not require that an officer compromise his or her safety or increase the risk of physical harm to the public. De-escalation techniques should only be used when it is safe and prudent to do so.

Planning – Officer Rodriguez discussed tactical concepts with Officer Silva on the day of the incident which included contact and cover, pedestrian stops, dealing with mentally ill community members, and tactical de-escalation. After receiving a radio call while at North Hollywood CPS, Officer Rodriguez began formulating her response and asked Officers Topete and Guillen, who were also at North Hollywood CPS, to respond as an additional unit. While on their way to the location of the radio call, Officers Rodriguez and Silva discussed the type of situation they were entering, so they could then determine what actions would be necessary. Prior to entering the Tomasz' residence, Officer Rodriguez requested a supervisor and requested for Officer Topete to retrieve a less-lethal force option. Upon entering the residence, Officer Rodriguez observed that Oktawian had retreated into the area of the kitchen. Officer Rodriguez planned to contain Oktawian in the kitchen by having Officer Silva stand in front of the north kitchen entry while Officer Rodriguez maintained the south entrance. After the non-lethal use of force had occurred, Officer Rodriguez discussed a plan with Sergeant Morales to have Oktawian medically examined due to Oktawian's erratic behavior and reported narcotics use. The UOFRB recognized Officer Rodriguez' attempts at coordination and communication with the officers at scene but would have preferred that Officer Rodriguez had waited for additional

resources and developed a plan with those resources prior to entering the residence.

While responding to the radio call, Officers Duplechein and Ripplinger discussed contact and cover roles, as well as roles of lethal and less-lethal force options, traffic stops, pedestrian stops, and the fluidity of those situations. Prior to the non-lethal use of force, Officer Duplechein nodded to Officers Rodriguez and Simon to indicate that he was ready to make contact with Oktawian as part of his tactical plan. During the non-lethal use of force, Officer Duplechein verbalized his plans to move from one side of Oktawian to the other while assisting with the application of handcuffs. Prior to the non-lethal use of force, Officer Simon observed Officer Duplechein's head nod and nodded in return as acknowledgement in a non-verbal agreement to make contact with Oktawian.

Officers Cairns and her partner, Officer Luna had worked as partners and previously discussed their respective roles including contact, cover, lethal force, less-lethal force options, and physical takedowns. After Oktawian was handcuffed, Officer Cairns discussed a plan with Officers Kowalczyk and Ripplinger to double-lock Oktawian's handcuffs. Once she determined it was too difficult to do so from her positioning, Officer Cairns communicated her plan to place Oktawian onto his stomach while she double-locked the handcuffs.

Officers Nguyen and Kowalczyk, while enroute to the radio call, discussed cover, contact, less-lethal force options, lethal force, and traffic stops. Officer Nguyen stated that prior to each radio call, he and Officer Kowalczyk discussed their roles. Officer Nguyen's plan was to de-escalate the situation. During the non-lethal use of force, Officer Nguyen planned on controlling Oktawian's legs if it was necessary. Officer Nguyen did so and maintained control of Oktawian's legs until Oktawian was taken into custody.

Sergeant Morales entered the residence after officers were communicating with Oktawian in an attempt to de-escalate the situation. Sergeant Morales verified Officer Topete was the designated beanbag shotgun officer. During the non-lethal use of force, Sergeant Morales observed Officers Cairns double-locking Oktawian's handcuffs while Oktawian was in the prone position. Sergeant Morales directed Officer Cairns to return Oktawian to a recovery position after Officer Cairns had completed double-locking the handcuffs. Officer Cairns confirmed she understood Sergeant Morales' plan and followed through with it by placing Oktawian into the recovery position after double-locking the handcuffs.

Assessment – Officer Rodriguez assessed Oktawian's behavior when she arrived at the location of the radio call. Oktawian's behavior was more erratic than his behavior had been during Officer Rodriguez' previous contact with him. Officer Rodriguez had arrested Oktawian for a restraining order violation months prior. Officer Rodriguez believed Oktawian was possibly under the influence of narcotics and directed Officer Silva not to shine his flashlight directly at Oktawian, to prevent it

from further heightening Oktawian's agitated state. Officer Rodriguez determined a less-lethal force option should be deployed during the incident and in addition, requested a supervisor and a back-up. While in the residence, Oktawian's mother, Urszula, walked up to Oktawian and hugged him. Initially, Officer Rodriguez believed Urszula's presence would de-escalate Oktawian's behavior. However, Officer Rodriguez closely assessed the interaction throughout their contact and determined Urszula's presence was not serving to de-escalate the situation involving Oktawian. As a result, Officer Rodriguez approached Urszula while asking Urszula to step away from Oktawian and Urszula complied.

Officers Simon and Van Gorden immediately assessed Oktawian's behavior and determined he exhibited signs of being under the influence of methamphetamines. Officers Simon and Van Gorden also observed Oktawian was not responding to attempts at de-escalation by Officer Rodriguez. After the non-lethal use of force began, Officer Van Gorden assessed the number of officers involved and decided not to engage unless it became necessary.

Officer Cairns entered the residence and observed Oktawian's parents, Urszula and Tomasz, near officers who were engaged in the non-lethal use of force. Officer Cairns walked over to Urszula and Tomasz and maintained a position between Oktawian and his parents to ensure Oktawian's parents did not engage with the involved officers. Officer Luna observed numerous officers involved in the non-lethal use of force and determined there were sufficient officers engaged. Officer Luna made the decision to only engage in the use of force if it was necessary.

Officers Nguyen entered the location as the non-lethal use of force was occurring and assessed Oktawian and the engagement of the officers with him. Officer Nguyen observed Oktawian kicking forward and moving towards the couch as the officers attempted to take Oktawian into custody. Officer Nguyen took hold of Oktawian's legs to assist until the other officers were able to control Oktawian's arms.

Officer Rodriguez assessed that a less-lethal force option may be needed during the incident and Officer Topete deployed the beanbag shotgun. Officer Topete assessed that she was too close to Oktawian and re-deployed to gain some distance within the residence.

The UOFRB noted Officer Duplechein's specific assessment of Oktawian leading up to the non-lethal application of force and his decision to make physical contact. The UOFRB noted the specific articulation by Officer Duplechein with regard to his experience and understanding of the Department's Training Bulletin on excited delirium when dealing with persons exhibiting signs of excited delirium.⁴³ Officer Duplechein discussed in his interview the signs and symptoms and his knowledge of the considerations an officer should contemplate when dealing with such individuals.

⁴³ LAPD Training Bulletin, Volume XLVIII, Issue 3, dated June 2019, "Excited Delirium."

Sergeant Morales assessed the incident while inside of the residence and determined that some roles, such as less-lethal and contact officer, had already been assumed by officers within the residence. Sergeant Morales directed Officer Guillen to remain at the front of the residence to brief the incoming resources who were responding to Officer Rodriguez' back-up request. Officer Rodriguez had established her role as the communications officer with Oktawian and Sergeant Morales noted the officers were not referring to Oktawian by his name. Sergeant Morales obtained Oktawian's name as he believed it could assist the officers in de-escalating Oktawian. During the non-lethal use of force, Sergeant Morales continued to assess and believed there were sufficient officers engaged with Oktawian. Sergeant Morales advised the involved officers to only use bodyweight to control Oktawian. Sergeant Morales continued to monitor the officers' activities and Oktawian's condition as they struggled to take Oktawian into custody. As Officer Cairns attempted to double-lock Oktawian's handcuffs, Sergeant Morales assessed Oktawian's prone position. Sergeant Morales told Officer Cairns to return Oktawian to a lateral recumbent position once Officer Cairns had completed double-locking the handcuffs.

In this case, the UOFRB would have preferred that Sergeant Morales had utilized another officer to adjust Oktawian's handcuffs rather than have Officer Cairns do so, as Officer Cairns was also maintaining control of one of the HRDs. This may have reduced the amount of time Oktawian was placed in a prone position in order to facilitate the adjustment of the handcuffs.

Time – Officer Rodriguez and Silva observed Oktawian in the front yard of his parent's residence. Officer Rodriguez and Silva remained outside on the street monitoring Oktawian's movements. Through verbalization, Officer Rodriguez attempted to have Oktawian walk out of the yard to the street where the officers were waiting. After Oktawian entered his parent's residence through the back door in the backyard, Tomasz opened the front door to allow the officers to enter. As Officer Silva walked towards the front door, Officer Rodriguez advised Officer Silva to wait for the additional officers. Officer Rodriguez also attempted to de-escalate the situation for approximately 13 minutes prior to the use of non-lethal use of force.

Officers Duplechein, Ripplinger, Simon, Van Gorden, Cairns, Luna, Nguyen, and Kowalczyk did not engage with Oktawian when they initially arrived. After determining Oktawian was not responding to Officer Rodriguez' attempts at de-escalation, Officers Duplechein and Simon positioned themselves on either side of Oktawian but did not engage with him. Officers Duplechein and Simon waited as Officer Rodriguez continued verbalizing with Oktawian. Officers Cairns used her time, upon entry into the residence, to assess and eventually determined her priority was to keep Oktawian's parents away from the officers who were engaged with Oktawian.

While Oktawian's attention was diverted to the officers who were handcuffing him, Officers Cairns and Kowalczyk utilized that time to apply two HRDs to Oktawian's legs, which assisted in de-escalating the incident and prevent Oktawian from kicking and injuring the officers. After Oktawian was taken into custody, Officer Luna utilized her time in the residence to gather information about Oktawian from Tomasz and Urszula.

Sergeant Morales stated that time was available to the officers as he heard additional resources responding to the back-up request. Sergeant Morales allowed the primary officers to continue with their attempts at verbal de-escalation.

Redeployment and/or Containment – Officers Rodriguez and Silva slowly entered the residence. After entering, they observed Oktawian slowly backing into the kitchen. Officer Rodriguez and Silva redeployed to either side of the kitchen in an attempt to contain him as they tried to de-escalate the situation. Later during the incident, Officer Silva ensured the hallway was contained up to the point that Urszula exited the hallway and walked over to Oktawian. Officer Rodriguez advised Officer Topete to move further back and away from Oktawian since Topete was standing nearby while holding the beanbag shotgun.

Officer Van Gorden entered the residence but observed that there were sufficient officers inside of the residence. Officer Van Gorden redeployed outside of the residence until he was needed inside to provide an extra set of handcuffs.

Sergeant Morales observed Oktawian attempting to move away from Officers Duplechein and Simon by trying to lunge towards the couch in the living room. Sergeant Morales re-deployed away from Oktawian's path, avoiding becoming into contact with Oktawian and maintaining his role as IC.

Other Resources – Officers Rodriguez and Silva, prior to leaving North Hollywood CPS, requested Officers Guillen and Topete to assist them by becoming their additional unit and responding to the radio call with them. Upon arrival, Officer Rodriguez believed, based on Oktawian's behavior, she needed to have a supervisor and an additional back-up unit. Officer Rodriguez requested a back-up unit and requested a supervisor. Officer Rodriguez also ensured a less-lethal force option was available as a resource in case it was needed.

Due to Oktawian's refusal to cooperate with Officer Duplechein's commands, Officer Duplechein utilized eye contact with Officer Simon as a non-verbal cue to have an additional officer assist him in making physical contact with Oktawian. Likewise, Officer Simon recognized his responsibility to be in close proximity to render aid to Officer Duplechein if necessary.

Officer Luna utilized department resources to verify that the restraining order was valid against Oktawian.

Sergeant Morales ensured other resources were available to the officers at scene. He also notified his watch commander of the incident.

Sergeant Mejia responded to the back-up request; however, he remained outside of the residence during the incident. The UOFRB opined that Sergeant Mejia had the opportunity to assist Sergeant Morales with delegating assignments, preventing officers from stacking in the doorway, directing other resources to interview Martinez who had called 9-1-1, or contacted and obtained information from MEU. Sergeant Mejia could have also assisted in the removal of Tomasz and Urszula from the residence to prevent them from interceding. The UOFRB was critical of Sergeant Mejia's lack of engagement and lack of active leadership by remaining outside of the residence without communicating to Sergeant Morales to inquire if additional assistance was needed in resolving this incident.

Lines of Communication – Officers Rodriguez and Silva communicated their plan to each other when they were enroute to the call. Officer Rodriguez established an open line of communication with Tomasz by asking him questions about Oktawian when she approached Tomasz. Officer Rodriguez asked about the restraining order, if Oktawian's behavior was unusual, and asked if there were other people in the residence, and where Urszula was located.

Officer Rodriguez and Silva engaged in extensive communication with Oktawian and attempted to use different techniques. Officer Rodriguez advised Oktawian that they knew each other, in an attempt to build rapport. When her verbalization and Urszula's attempts at calming Oktawian appeared ineffective, Officer Rodriguez communicated with Urszula asked Urszula to step away from Oktawian. Continued attempts to gain Oktawian's compliance were ineffective; therefore, Officer Duplechein took over communications and utilized firm, direct instructions with potential consequences should Oktawian refuse to comply. Officer Silva continued to ensure Oktawian that they were not going to hurt him because Oktawian repeated stated that they officers were going to kill him. Officer Rodriguez also communicated with Sergeant Morales the nature of the call and what was occurring.

Officer Duplechein was cognizant in the importance of utilizing a single point of contact and one line of communication until that contact was no longer effective. The UOFRB noted that Officer Duplechein attempted communication with Oktawian in the hope that Oktawian would respond to another voice. Officer Duplechein stated that he had prior experience with a friend who lived with his family and suffered from bi-polar disorder and manic episodes. The UOFRB took note of Officer Duplechein's particular awareness of attempting to gain a person's trust when having to make physical contact.

Officer Duplechein and Ripplinger discussed their plan with each other on the way to the radio call. Upon his arrival, Officer Duplechein communicated with officers at scene to ensure there was a less-lethal option and utilized non-verbal cues with Officer Simon to indicate he was going to make physical contact with Oktawian.

The UOFRB noted that Officer Rodriguez effectively utilized Department recommendations for interacting with persons experiencing excited delirium by remaining calm and giving clear commands to Oktawian and using a firm voice. In addition, Officer Rodriguez lowered her voice in continued attempts to de-escalate Oktawian; however, he remained agitated. The UOFRB also noted the transition of communications from Officer Rodriguez to Officer Duplechein when Officer Rodriguez' numerous de-escalation attempts appeared to be ineffective.

Officers Ripplinger, Kowalczyk, and Cairns communicated with each other when they were double-locking Oktawian's handcuffs and re-positioning Oktawian.

Officer Duplechein communicated with other officers as he moved around Oktawian to assist with the left handcuff.

Officer Cairns, Nguyen, Ripplinger, and Kowalczyk communicated amongst each other with regard to applying and securing the HRD and the re-positioning of Oktawian for purposes of double-locking the handcuffs before proceeding.

Sergeant Morales verified Officer Topete was the designated less-lethal officer. He also directed Officer Guillen to remain outside the residence and brief incoming officers who were responding to the back-up request. Sergeant Morales re-deployed to gain some distance from Oktawian so he would not become physically involved in the use of force. Sergeant Morales directed the officers to only utilize bodyweight and to handcuff Oktawian as they attempted to take him into custody. Sergeant Morales verbalized with Officers Cairns and Ripplinger to place Oktawian into a recovery position upon completing the adjustment of the handcuffs. Sergeant Morales notified Lieutenant Gilles that a use of force had occurred, believing it was a NCUOF incident at that time.

The UOFRB recognized that the situation was evolving rapidly and discussed how additional planning and communication by Sergeant Morales could have ensured each officer had clearly assigned roles. Sergeant Morales discussed having no issues with the decisions the officers were making; however, he did not communicate this to the officers at scene or indicate he was the Incident Commander (IC).

Additionally, the UOFRB would have preferred there was an officer assigned to contact MEU and gather additional information on Oktawian's mental health history and condition. The officers involved in the non-lethal use of force did utilize continuous communication as they took Oktawian into custody.

During the review of the incident, the following Debriefing Topics were noted:

Debriefing Points

- **Debriefing Point No. 1 Tactical Planning/Communication**

Officers must approach every contact, whether a consensual encounter or a lawful detention, with officer safety in mind. Complacency, overconfidence, poor planning, or inappropriate positioning can leave officers vulnerable to attack (California Commission on Peace Officer Standards and Training, Learning Domain 21).

In order to ensure officer safety and help ensure an appropriate outcome, the primary officers and cover officers must effectively communicate with one another. Appropriate communication involves:

Advising the primary officer of any critical occurrences or safety issues (e.g., movement within the target vehicle, someone approaching outside the primary officer's field of vision, possible crossfire situations, etc.), Avoid inappropriate interruptions, and Avoid giving directions which conflict with those given by the primary officer. Only one person, usually the primary officer, gives the commands, unless a specific situation calls for another officer to issue a command (California Commission on Peace Officers Standards and Training, Learning Domain No. 22).

Officers Rodriguez, Silva, Simon, Ripplinger, Duplechein, Nguyen, Kowalczyk, Cairns, and Sergeant Morales had limited discussions in the development of a plan to detain Oktawian, who was believed to be under the influence of narcotics or suffering from a mental illness.

Operational success is based on the ability of officers to effectively communicate during critical incidents. Officers, when faced with a tactical incident, improve their overall safety by their recognition of an unsafe situation and by working together collectively to ensure a successful resolution. A sound tactical plan should be implemented to ensure minimal risk exposure to the officers, while keeping in mind officer safety concerns.

In this case, Officers Rodriguez, Silva, Nguyen, Kowalczyk, Cairns, Simon, Duplechein, and Ripplinger discussed tactical concepts and roles with their respective partners during their shift.

After receiving a radio call while at North Hollywood CPS, Officer Rodriguez began formulating her response and asked Officers Topete and Guillen to respond as an additional unit. While on their way, Officers Rodriguez and Silva discussed the need to first determine the type of situation they had, so they could then determine their actions.

When Officers Rodriguez and Silva arrived at the radio call location, Officer Rodriguez advised the officers she had arrested Oktawian months prior for a restraining order violation at this residence. The community member who placed the 9-1-1 call, Martinez, stepped outside to meet with the officers. For Martinez' safety, Officer Rodriguez ordered Martinez back into his residence and told him to lock his doors. However, no further information was gathered from Martinez, either in person or through Communications Division.

Officer Rodriguez observed Oktawian jump onto a wall and into his parent's backyard and directed officers to keep a visual on Oktawian. Shortly after, Officer Rodriguez observed Tomasz open the front door and state "He's in here" while motioning with his hand for the officers to enter. Prior to entering the residence, Officer Rodriguez requested a supervisor and asked Officer Topete to retrieve a less-lethal force option, but no plan was discussed amongst the officers. In addition, none of the officers attempted to gather further information about the incident or ask Tomasz his reason for wanting police presence inside his home.

Upon entering the residence, Officer Rodriguez observed that Oktawian had retreated into the kitchen and requested a back-up. Officer Rodriguez planned to contain Oktawian in the kitchen by having Officer Silva stand in front of the north kitchen entry while Officer Rodriguez maintained the south entrance. Officer Rodriguez assumed the role of contact officer throughout the incident until the contact officer role was transitioned to Officer Duplechein. However, there was no specific plan discussed among the other officers who were present.

Officer Duplechein stated he made eye contact with Officer Simon as a non-verbal cue to initiate physical contact with Oktawian, but there was no verbal plan or discussion of roles among the officers who were present and became involved in the non-lethal use of force. Officer Duplechein did verbalize his plans to move from one side of Oktawian to the other while assisting with the application of handcuffs.

During the non-lethal use of force, Officer Nguyen planned on controlling Oktawian's legs if it was necessary but did not verbalize his intent to the other officers. Officer Nguyen did so and maintained control of Oktawian's legs until Oktawian was taken into custody.

After Oktawian was handcuffed, Officer Cairns discussed a plan with Officers Kowalczyk, Nguyen, and Ripplinger to double-lock Oktawian's handcuffs. Once she determined it was too difficult to accomplish from her positioning, Officer Cairns communicated her plan to place Oktawian onto his stomach while she double-locked the handcuffs.

The UOFRB recognized Officer Rodriguez' leadership, coordination, and communication with the officers at scene, but would have preferred that Officer Rodriguez had waited for additional resources, confirmed the restraining order was still valid, and developed a specific plan prior to entering the residence. The UOFRB

discussed Officer Rodriguez' communication with not only Oktawian, which continued for approximately nine minutes until Officers Duplechein and Simon attempted to take him into custody, but with the responding officers as well, prior to entering the residence. While verbalizing with Oktawian, Officer Rodriguez and Officer Duplechein remained calm and firm as they communicated with Oktawian and applied the Department's guidelines for interacting with a subject experiencing excited delirium. They provided clear, calm instructions utilizing firm tones. While communicating with Oktawian, the UOFRB noted Officer Rodriguez had lowered her voice in further attempts to de-escalate the situation; however, Oktawian remained agitated. Additionally, the UOFRB acknowledged the smooth transition of communication with Oktawian from Officer Rodriguez to Officer Duplechein. In addition, the UOFRB noted Officers Simon, Silva, Kowalczyk, Ripplinger, Nguyen, and Cairns were communicating continuously among each other as they took Oktawian into custody.

Based on the totality of the circumstances, the UOFRB determined, and the Chief concurred, that while there were areas for improvement, Officers Rodriguez, Silva, Simon, Nguyen, Ripplinger, Duplechein, Kowalczyk, and Cairns' tactical planning and communication during this incident did not deviate from approved Department tactical training. They worked as a team and coordinated their various responses. In order to enhance future performance, the Chief will direct that Tactical Communication and Tactical Planning be a topic of discussion during the Tactical Debrief.

Sergeant Morales entered the residence after officers were communicating with Oktawian in an attempt to de-escalate the situation. Sergeant Morales verified Officer Topete was the designated beanbag shotgun officer and directed Officer Guillen to remain outside the residence to brief additional officers. Sergeant Morales did not designate an arrest team or a designated cover officer to take Oktawian into custody. Due to insufficient role designations and some initial lack of direction, several officers entered the small residence. Some of those additional officers could have been tasked with other duties. In addition, Sergeant Morales directed Officer Cairns to return Oktawian to a recovery position as soon as she completed double-locking the handcuffs.

The UOFRB was concerned that Sergeant Morales was not more proactive in his approach to this incident with verbalizing role designations and officer assignments while he was monitoring and assessing this incident as an Incident Commander. The UOFRB would have preferred Sergeant Morales had verbally communicated a basic plan, provided additional direction, and delegated tasks. Officer Rodriguez was handling multiple tasks and performing well; however, Sergeant Morales needed to assume some of those tasks and reduce Officer Rodriguez' responsibilities. A field supervisor must weigh their role and balance scene and risk management concerns, while still allowing officers some discretion in handling their call. The UOFRB acknowledged Sergeant Morales' efforts in communication and leadership by designating Officer Guillen as an information officer for responding

personnel, providing direction to only use bodyweight, ensuring the officers were using an appropriate level of force, directing the handcuffing during the officers' struggle with Oktawian, and directed the HRD application.

Based on the totality of the circumstances, the UOFRB determined, and the Chief concurred, that Sergeant Morales' tactical planning and overall communication during this incident did not deviate from approved Department tactical training. In order to enhance future performance, the Chief will direct that this be a topic of discussion during the Tactical Debrief.

- **Debriefing Point No. 2 Situational Awareness-Tactical**

No matter what patrol strategy is deployed, officers on patrol must rely on their own observation and perception skills. Officers must function as trained observers. Officers on patrol are expected to practice disciplined observation and apply their training and experience to accurately perceive what is occurring or is about to occur.

To an officer, observation means the ability to gather information by noting facts or occurrences with a heightened sense of awareness. While on patrol, officers must use not only their eyes, but all of their senses including hearing, smell, etc., to obtain information from the outside world. Observation can be enhanced by training (knowing what to look for), experience (knowing where and when to look for it), a variety of special tools (e.g., binoculars, night vision scopes, etc. (California Commission on Peace Officer Standards and Training, Revised July 2005, Workbook Correction April 2012, Learning Domain No. 21)

The officers were unable to locate a light source within the confines of a dark space. While a hallway light was later located inside the residence, the officers relied on their flashlights prior to and during the application of non-lethal use of force.

The UOFRB noted that although there were areas for improvement, such as locating a potential light source, a bright light also had the potential to further exacerbate Oktawian's agitation. In this case, although the officers were presented with some challenges in the darkness, they did utilize their flashlights to illuminate Oktawian's movements.

Officers Van Gorden, Kowalczyk, Simon, Ripplinger, and Duplechein arrived at the radio call and observed Oktawian as they were standing in front of the residence's front door. Oktawian, who was unsearched at the time and wearing bulky clothing, was directly in the path of the front door. Although the comments of the radio call did not indicate that Oktawian was armed with a weapon, officers are reminded not to unnecessarily expose themselves to potential threats. In addition, Officer Guillen guided Urszula near the kitchen island where a large knife was laying on a cutting board. In this case, there were no indications that Urszula was potentially violent.

Based on the totality of the circumstances, the UOFRB determined, and the Chief concurred, that while identified as an area for improvement in this case, the officers' actions were not a deviation, but there were areas identified for improvement. The Chief will direct that this be a topic of discussion during the Tactical Debrief.

- **Debriefing Point No. 3 Situational Awareness-Involvement of Family Member**

No matter what patrol strategy is deployed, officers on patrol must rely on their own observation and perception skills. Officers must function as trained observers. Officers on patrol are expected to practice disciplined observation and apply their training and experience to accurately perceive what is occurring or is about to occur.

To an officer, observation means the ability to gather information by noting facts or occurrences with a heightened sense of awareness. While on patrol, officers must use not only their eyes, but all of their senses including hearing, smell, etc., to obtain information from the outside world. Observation can be enhanced by training (knowing what to look for), experience (knowing where and when to look for it), a variety of special tools (e.g., binoculars, night vision scopes, etc. (California Commission on Peace Officer Standards and Training, Revised July 2005, Workbook Correction April 2012, Learning Domain No. 21)

Officer Silva observed Urszula emerge from the hallway and move towards Oktawian.⁴⁴ Officer Silva ordered Urszula to stop, but Urszula continued towards Oktawian and wrapped her arms around Oktawian in an embrace. Urszula advised the officers she could calm Oktawian and spoke to him in another language. The officers at the scene did not know what Urszula's intentions were or if Oktawian had weapons in his possession, as Oktawian had not yet been searched.

In this case, Officer Rodriguez stated Oktawian was hugging Urszula, considered that Urszula may be able to de-escalate Oktawian as she was rubbing Oktawian's back in an attempt to soothe him. Officer Rodriguez continued verbalizing with Oktawian as Urszula attempted to calm him. Oktawian was contained by the officers within the living/dining room area and the officers were assessing Urszula's effect on Oktawian. Officer Rodriguez observed that Urszula's contact with Oktawian was not de-escalating him and Officer Rodriguez pulled Urszula away from Oktawian.

During the UOFRB, FID investigators indicated that Tomasz had the restraining order against Oktawian and Urszula acted as the "peacekeeper" in their family. Tomasz and Urszula believed they had been granted a special waiver from the court to allow Oktawian to visit during the Christmas holiday.

⁴⁴ Officer Silva was on probation as a newly hired Police Officer seven months prior. Officer Silva was assigned to North Hollywood Patrol Division as a Probationary Police Officer and according to Officer Silva, graduated the Los Angeles Police Academy on November 22, 2019. Officer Rodriguez was Officer Silva's Field Training Officer and this was their first night working together.

Note: Officer Guillen utilized the Mobile Digital Computer which confirmed that Tomasz had a valid restraining order prohibiting Oktawian from being in the residence.

The UOFRB had a lengthy deliberation regarding Urszula's access to Oktawian as Oktawian had not been searched. In addition, Sergeant Morales and the officers were unaware of what issues had occurred that caused Tomasz to seek a restraining order against Oktawian. However, the UOFRB did note that Urszula's appearance and approach to Oktawian was unexpected by the officers. The UOFRB noted that as soon as Officer Rodriguez determined Urszula's efforts were not productive in de-escalating Oktawian, she requested Urszula to move away from Oktawian.

The UOFRB further considered that the Department discourages officers from utilizing family members during high-risk incidents. In addition, the officers had knowledge that Oktawian's family had sought a restraining order to prevent Oktawian from being in the residence. Sergeant Morales assessed the situation and allowed the scenario to continue, but the Chief would have preferred that Tomasz and Urszula were removed from the area for their own safety and the safety of the officers in the residence.

However, in considering the totality of the circumstances with regard to this specific incident, the UOFRB noted that the officers were focused on detaining Oktawian and other than Officer Silva, did not observe Urszula's approach. Officer Silva attempted to stop Urszula, but when unable to do so. The UOFRB considered that Urszula had come to Oktawian with outstretched arms and appeared to feel comfortable in approaching and embracing Oktawian. As Urszula had already made physical contact with Oktawian, the officers hoped to gain Oktawian's compliance. In the officers' assessments, Oktawian remained agitated; therefore, Urszula was removed from the area.

Based on the totality of the circumstances, the UOFRB determined, and the Chief concurred, that while identified as an area for improvement, Sergeant Morales' and the officers' actions were not a deviation in this case. The Chief will direct that this be a topic of discussion during the Tactical Debrief.

- **Debriefing Point No. 4 Hobble Restraint Device**

Once the HRD is secured, officers shall immediately search the waistband area and then immediately place the individual in an upright, seated position or on his or her left side (left lateral recumbent position). If this is not possible due to medical or tactical issues, then placing the individual on his/her right side is an acceptable substitute (Los Angeles Police Department Use of Force – Tactics Directive No. 2.2, Hobble Restraint Device – November 2017).

Officers Cairns and Kowalczyk applied a HRD around Oktawian's crossed ankles and a second HRD above Oktawian's knees. Oktawian was initially placed into a right lateral recumbent position. Oktawian was returned to a prone position after the application of the two HRDs in order for Officer Cairn's to double-lock the handcuffs as she held onto the HRD strap. Oktawian remained in this position for approximately 40 seconds before he was returned to his right side.

In this case, approximately 10 seconds after the HRDs were secured, Officers Simon, Ripplinger, and Rodriguez moved Oktawian into an upright seated position, with his legs extended in front of him. Officer Simon used his right knee to support Oktawian in the upright position so Oktawian's movements would not cause Oktawian injury. Officer Ripplinger placed his left hand onto the back of Oktawian's neck to brace and stabilize Oktawian as Oktawian was in a seated position. Officer Cairns stated she noticed the handcuffs were not double-locked and she was afraid the handcuffs would poke or hurt Oktawian. Officer Duplechein rolled Oktawian into a prone position so Officer Cairns could double-lock the handcuffs on Oktawian's wrists.

Oktawian remained in the prone position for approximately 40 seconds while being monitored. Officer Cairns finished double-locking the handcuffs while maintaining a hold on the HRD and upon completion, Oktawian was rolled into a right lateral recumbent position. Officer Kowalczyk re-positioned herself behind Oktawian and placed her hands on his left arm, while Officer Ripplinger placed his left arm on Oktawian's left wrist. Officer Nguyen maintained control of the lower hobble strap and placed his left shin across Oktawian's lower legs. Officer Cairns maintained control of the upper hobble strap and placed her left knee on Oktawian's left thigh. The UOFRB noted that although Oktawian was placed on his right side instead of the left side after the HRD application, the space was limited inside of the residence, making it difficult for the officers to place Oktawian onto his left side. Officer Cairns stated she was aware Oktawian was lying on his right side, however repositioning Oktawian to his left side was not feasible due to his large size and the small confines of the room. Sergeant Morales also stated that he did not want to re-position Oktawian to his left side because of the confined area they were in.

The UOFRB discussed that when applying the HRD, techniques can be varied according to the circumstances, but care should be taken to minimize risk to the individual. Officers need to be prepared to rapidly gain control once the decision is made to take physical control of a suspect. The UOFRB noted Sergeant Morales' observation of Officer Cairns holding the HRD strap near Oktawian's handcuffs as the handcuffs were being adjusted. Sergeant Morales directed the officer to keep the HRD away from the handcuffs to eliminate an appearance of attaching the HRD and handcuffs together.⁴⁵ Sergeant Morales also continued to monitor the officers' actions and Oktawian's position by directing the officers to return Oktawian to a recovery position upon adjusting his handcuffs. Sergeant Morales also discussed

⁴⁵ LAPD Use of Force – Tactics Directive No. 2.2, dated November 2017, "Hobble Restraint Device."

assessing Oktawian during the process and noted Oktawian was conscious and did not appear to have an adverse reaction to his positioning. The UOFRB preferred that Officer Cairns commit to one action instead of trying to double-lock Oktawian's handcuffs while also holding onto the HRD. The UOFRB also preferred that Sergeant Morales designate an officer who was not holding the HRD to adjust the handcuffs for efficiency and to reduce Oktawian's time in the prone position. The Chief will direct this to be a topic of discussion at the Tactical Debrief.

Based on the totality of the circumstances, the UOFRB determined, and the Chief concurred, that while identified as an area for improvement, Sergeant Morales' and the officers' actions were reasonable in this case. The Chief will direct that this be a topic of discussion during the Tactical Debrief.

Additional Tactical Debrief Topics

- **Simultaneous Non-Conflicting Statements** – Officers Topete, Guillen, and Silva gave Oktawian non-conflicting, simultaneous commands to Oktawian as Officer Rodriguez was attempting to establish rapport with Oktawian. Officers are reminded that simultaneous commands may cause confusion during an incident. The Chief will direct this to be a topic of discussion at the Tactical Debrief.
- **Less-Lethal Force Options (Taser)** – Officer Rodriguez requested a Taser to be used on Oktawian when he was resisting the officers. Officer Duplechein responded verbally by stating “No Taser.” According to Officer Duplechein, he did not want the Taser utilized based on his belief that the officers who were in physical contact with Oktawian would each be subject to the effects of the Taser if it were used on Oktawian in a drive stun mode. Officers are reminded that the drive stun mode of the Taser has a localized affect limited to the location of where the prongs of the Taser are in contact with the subject. The Chief will direct this to be a topic of discussion at the Tactical Debrief.
- **Searches of Arrestees** – Officer Cairns searched Oktawian's left pants pocket incident to the arrest while other male officers were nearby. Although in this case the pants pocket was readily accessible to be searched and did not require unusual manipulation, officers are reminded that barring exigent circumstances, it is preferable that an officer of the same gender conduct physical searches of subjects or suspects. The Chief will direct this to be a topic of discussion at the Tactical Debrief.
- **Handcuffing Arrestees/Detainees** – Upon the initial handcuffing of Oktawian, the handcuffs were not double-locked, causing Officer Cairns to re-position Oktawian into a prone position. Officers are reminded to double-lock handcuffs as soon as practical, to avoid potential injury to the suspect if the ratchets unintentionally tighten further. The Chief will direct this to be a topic of discussion at the Tactical Debrief.

Command and Control

- *Command and Control is the use of active leadership to direct others while using available resources to coordinate a response, accomplish tasks and minimize risk. Command uses active leadership to establish order, provide stability and structure, set objectives and create conditions under which the function of control can be achieved with minimal risk. Control implements the plan of action while continuously assessing the situation, making necessary adjustments, managing resources, managing the scope of the incident (containment), and evaluating whether existing Department protocols apply to the incident.*

Command and Control is a process where designated personnel use active leadership to command others while using available resources to accomplish tasks and minimize risk. Active leadership provides clear, concise, and unambiguous communication to develop and implement a plan, direct personnel and manage resources. The senior officer or any person on scene who has gained sufficient situational awareness shall initiate Command and Control and develop a plan of action. Command and Control will provide direction, help manage resources, and make it possible to achieve the desired outcome. Early considerations of PATROL will assist with the Command and Control process (Los Angeles Police Department, Training Bulletin, Volume XLVII Issue 4, July 2018).

Line Supervision – Defined. A supervisor who has the specific responsibility of issuing directions and orders to designated subordinates shall be considered as having the duty of line supervisor and shall be held accountable for achieving conformance with the directions and orders that he/she issues (Los Angeles Police Department Manual, Volume 3, Section 135).

Incident Commander (IC) – In accordance with Department Policy, the IC sets the objectives, the strategy and directs the tactical response. Directing the tactical response means applying tactics appropriate to the strategy, assigning the right resources and monitoring performance (Los Angeles Police Department, Supervisor's Field Operations Guide, Volume 2, Emergency Operations Guide).

Sergeant Morales heard Officer Rodriguez' request for a supervisor and recognized the location as the same residence he had responded to previously during his shift. Sergeant Morales directed Officer Guillen to brief the arriving officers who were responding to the back-up request. Sergeant Morales observed Officer Topete holding a beanbag shotgun and verified with Officer Topete that she would be responsible for deploying it if needed. Sergeant Morales noticed Officer Rodriguez was not using Oktawian's name and obtained it in an effort to help the officers build a rapport and de-escalate the incident. Sergeant Morales assessed the scene, monitored the officers' efforts, and gathered background and behavior information from Oktawian's parents. Sergeant Morales assessed his containment and determined there were enough officers at scene to assist in detaining Oktawian. Sergeant Morales monitored the officers' utilization of force to ensure the officers

were using an appropriate level and directed the officers to handcuff Oktawian. Sergeant Morales observed Oktawian trying to stand up, so he directed the officers to place a HRD onto Oktawian's legs and place him into a recovery position. Sergeant Morales ordered Officer Cairns to move the HRD away from Oktawian's handcuffs to avoid the appearance that the HRD was connected to them.

The UOFRB was concerned that Sergeant Morales' had not taken a more proactive approach in this incident with verbalizing role designations and officer assignments. The UOFRB would have preferred Sergeant Morales had verbally communicated a basic plan, provided more direction, and taken on a more defined role as that of an Incident Commander rather than imply with his silence that he approved of the officers' actions. Sergeant Morales made efforts to provide leadership by directing Officer Guillen to brief arriving officers, providing direction to the officers to utilize bodyweight, to handcuff Oktawian as the officers were struggling with him, and to apply the HRD.

Sergeant Mejia responded to the radio call and arrived approximately thirty seconds after Sergeant Morales. Sergeant Mejia spoke with responding units as he maintained his position in the location's driveway but did not make contact with Sergeant Morales. Upon Officers Cairns and Luna's arrival, Sergeant Mejia directed them to remain outside of the residence due to numerous officers already inside of the residence. Once Sergeant Mejia overheard the sounds caused by the non-lethal use of force, he directed Officers Cairns and Luna to go into the residence, again without contacting Sergeant Morales. Sergeant Mejia remained near the front yard and front door area of the property during the non-lethal use of force. Sergeant Mejia assisted Sergeant Hooper, who was handling the incident as a NCUOF, by taking photographs of Oktawian as Oktawian was on the gurney in the back of the RA.

The UOFRB considered Sergeant Mejia's role as a supervisor at this incident. Sergeant Mejia monitored the officers on the exterior of the residence and sent additional officers into the residence when he heard the commotion inside the residence. The UOFRB would have preferred Sergeant Mejia coordinated with Sergeant Morales to determine what resources or activities were needed to resolve the incident.

Sergeant Hooper responded to the incident and initiated a NCUOF investigation. Sergeant Hooper met with Tomasz and Urszula to obtain their statements and spoke with some of the officers and Sergeant Morales at scene.

The UOFRB considered that there were three supervisors at scene. The first sedative provided by LAFD personnel did not appear to be immediately effective and Oktawian required further sedation according to the FID investigation. One of those supervisors should have followed the officers and RA to the hospital in case Oktawian had further become combative or there was an additional use of force.

In assessing an incident, a field supervisor needs to balance the role of providing direction and risk management concerns, while still allowing the officers some discretion in handling their call. In conducting an objective assessment of the entirety of this incident, the UOFRB determined, and the Chief concurred, that although there were some deficiencies identified, Sergeant Morales did meet expectations of a field supervisor at a critical incident and was consistent with Department supervisory training and expectations.

Sergeant Mejia, who was standing outside the residence, did provide some assistance by monitoring officers and by directing officers into the residence. The UOFRB would have preferred Sergeant Mejia utilize better communication with Sergeant Morales in coordinating and managing the incident. The UOFRB determined, and the Chief concurred, that although there were some deficiencies identified, Sergeant Mejia's overall actions did meet the expectations of a field supervisor at a critical incident and was consistent with Department supervisory training and expectations.

In the case of Sergeants Morales and Mejia, the Tactical Debrief would be an opportunity for both supervisors to understand and reinforce the Department's expectations of field supervisors, including working together in partnership, as well as taking an active leadership role and proactive approach when responding to incident.

Lieutenant Gilles was notified by Sergeant Morales of the NCUOF incident. Lieutenant Gilles was notified by officers, who were monitoring Oktawian, that Oktawian was admitted into Sherman Oaks Hospital for care. Lieutenant Gilles contacted FID for advisement and FID's Assessment Team responded to Sherman Oaks Hospital for further investigation. FID's Assessment Team determined that the NCUOF would be re-classified as a LERI. Lieutenant Gilles notified the Department Operation Center (DOC) of the re-classification of this incident to a LERI. The actions of Lieutenant Gilles were consistent with Department supervisory training and the Chief's expectations of a supervisor during a critical incident.

Tactical Debrief

- In conducting an objective assessment of this case, the UOFRB determined, and the Chief concurred, that Sergeant Morales', as well as Officers Rodriguez, Nguyen, Duplechein, Cairns, Simon, Kowalczyk, Ripplinger, and Silva's tactics did not deviate from approved Department tactical training.

Each tactical incident also merits a comprehensive debriefing. In this case, there were areas identified where improvement could be made. A Tactical Debrief is the appropriate forum for the involved personnel to discuss individual actions that took place during this incident.

The UOFRB determined that although Sergeant Mejia did not receive a Tactics' findings in this case, Sergeant Mejia would also benefit from attending the Tactical Debrief

Officers Topete, Van Gorden, Luna, and Guillen were not involved in the application of force; however, they were part of the response and engagement of Oktawian and would also benefit from attending the Tactical Debrief of the incident.

Therefore, the Chief will direct that Sergeants Morales and Mejia, as well as Officers Rodriguez, Nguyen, Duplechein, Cairns, Simon, Kowalczyk, Ripplinger, Silva, Topete, Van Gorden, Luna, and Guillen attend a Tactical Debrief and that the specific identified topics be discussed.

Note: Additionally, the Tactical Debrief shall also include the following mandatory discussion points:

- Use of Force Policy;
- Equipment Required/Maintained;
- Tactical Planning;
- Radio and Tactical Communication (including Code Six);
- Tactical De-Escalation;
- Command and Control;
- Lethal Force.

General Training Update (GTU)

On January 28, 2020, Officers Duplechein, Simon, and Ripplinger attended the General Training Update (GTU). All mandatory topics were covered.

Use of Force – General⁴⁶

- *It is the policy of this Department that personnel may use only that force which is "objectively reasonable" to:*
 - *Defend themselves;*
 - *Defend others;*
 - *Effect an arrest or detention;*
 - *Prevent escape; or,*
 - *Overcome resistance.**(Los Angeles Police Department Manual, Volume 1, Section 556.10)*

⁴⁶ Office of the Chief of Police (OCOP), Provisional Special Order No. 1, "Policy on the Use of Force - Revised," was adopted by the Department on January 2, 2020.

Factors Used to Determine Objective Reasonableness⁴⁷

The Department examines reasonableness using Graham v. Connor and the articulated facts from the perspective of a Los Angeles Police Officer with similar training and experience, in the same situation, based on the totality of the circumstances known to or perceived by the officer at the time, rather than the benefit of hindsight. The totality of the circumstances shall account for occasions when officers may be forced to make quick judgments about using force. In determining the appropriate level of force, officers shall evaluate each situation in light of the facts and circumstances of each particular case. Those factors may include, but are not limited to:

- *The seriousness of the crime or suspected offense;*
- *The level of threat or resistance presented by the subject;*
- *Whether the subject was posing an immediate threat to officers or a danger to the community;*
- *The potential for injury to citizens, officers or subjects;*
- *The risk or apparent attempt by the subject to escape;*
- *The conduct of the subject being confronted (as reasonably perceived by the officer at the time);*
- *The amount of time and any changing circumstances during which the officer had to determine the type and amount of force that appeared to be reasonable;*
- *The availability of other resources;*
- *The training and experience of the officer;*
- *The proximity or access of weapons to the subject;*
- *Officer versus subject factors such as age, size, relative strength, skill level, injury/exhaustion and number officers versus subjects; and,*
The environmental factors and/or other exigent circumstances.
(Los Angeles Police Department Manual, Volume 1, Section 556.10).

Non-Lethal Use of Force⁴⁸

- **Officer Duplechein – Firm Grip, Wrist Lock**

According to Officer Duplechein, he observed that Oktawian was not responding to Officer Rodriguez' commands. Officer Duplechein positioned himself to the right of Oktawian, to keep Oktawian's path to the front door clear, in the event Oktawian complied and walked outside as Officer Rodriguez had asked him to do. Officer Duplechein believed Oktawian might respond to him and tried to give Oktawian verbal commands. Officer Duplechein warned Oktawian that a use of force might

⁴⁷LAPD Manual, Volume 1, Section 556.10 and OCOP, Provisional Special Order No. 1, "Policy on the Use of Force - Revised," was adopted by the Department on January 2, 2020.

⁴⁸ Los Angeles Police Department Manual, Volume 1, Section 556.10.

occur, and Oktawian may end up on the ground. Oktawian continued to act aggressively by tensing his fists and standing in a fighting pose and faced Officer Duplechein. Officer Duplechein realized Oktawian had not been searched and was in baggy clothing in which he could have had a weapon. Officer Duplechein did not want Oktawian to reach into his clothing and possibly produce a weapon. Therefore, Officer Duplechein approached Oktawian to take him into custody.

Officer Duplechein recalled, *"I took a position to the right of him. When I -- I did this so that if I was to take a position to the left of him, I still would have been in front of the doorway, and I still wanted to give him opportunity to exit the residence and also give ourselves a better tactical advantage giving ourself more time to de-escalate the situation... I was approximately six, or maybe a foot away from the suspect in a bladed stance. The suspect continued to be very irate. He was not being cooperative with our commands... I made the decision to see if a different plan would -- would work seeing if he would be more responsive to a male voice, giving command presence... I let him know that we are going to basically use -- we may use force in order to place him into cuffs if he does not cooperate.... it appeared he was uncooperative and not understanding my -- my commands or was not going to comply with my commands."*⁴⁹

*"He was -- he kept flexing his -- and tensing his -- his fist, opening and closing them from -- basically, balling his fist in almost a fighting pose. And then due to him -- after -- after I gave him commands, and he did not comply, he faced towards me. And at that point in time, I chose to place hands on because he had not been searched for weapons. And at that close of proximity, with the amount of clothing he had, jackets, an overcoat, I didn't want him reaching in for anything in his pockets while facing me, as well as being in such a confined close space."*⁵⁰

According to Officer Duplechein, he used his left hand to apply a firm grip to Oktawian's right elbow. Officer Duplechein then used his right hand to apply a wrist lock to the back of Oktawian's right hand. Oktawian began pulling away and attempted to flee, causing Oktawian to fall forward. Oktawian's upper body fell onto the living room couch while his lower body was partially on the ground in front of the couch. Officer Duplechein maintained control of his right arm as Oktawian fell. Officer Duplechein then guided Oktawian's right arm behind his back in order to take him into custody.

Officer Duplechein, *"I grabbed a hold of his right arm. And when I did so, I was using -- I basically used a C grip, or attempted to use a C grip, to my recollection, having my left hand on his back of his elbow, right hand on his wrist, in order to assist in guiding his right arm behind his back. As I was doing so, he -- his -- it appeared he was starting to pull... away from me possibly in an attempt to flee or*

⁴⁹ Officer Duplechein Page 10, Lines 7-14, 24-25, Page 11, Lines 1-2, 20-25, and Page 12, Lines 1-2 and Lines 5-7.

⁵⁰ Officer Duplechein Page 12, Lines 7-12 and 12-18.

*possibly in an attempt due to not -- not wanting to be touched. I -- his forward momentum of trying to -- to, what it appeared to me at the time, flee, caused him to fall forward. While doing so, I maintained control of his right arm. I -- well, as he fell to the ground and I had control of his right arm, I eventually assisted in guiding his right arm behind his back.*⁵¹

*I used a wrist lock only to what I believe was his right wrist in order to maintain control... I had both of my hands in a, I guess a -- was it a -- a clamp around his wrist causing his wrist to bend in a forward natural motion so that we -- he could not extend it and I guess flat.*⁵²

According to Officer Duplechein, after guiding Oktawian's right hand behind his back, he transitioned and used both hands to apply a firm grip above Oktawian's right wrist.

Officer Duplechein recalled, "Once his right arm was guide -- placed behind his back, I kept -- I -- I transitioned my hands, holding both my hands above his wrist in a grasping manner. Due to his size and strength, it didn't appear that I would be able to maintain his arm behind his back in -- in the previous position I had, so I had to adjust for his size and strength. And I -- I kept his hand there in a clenching grasp above his wrist until I was given a pair of cuffs by another officer."⁵³

Officer Duplechein recalled, Oktawian's right handcuff was applied, Officer Duplechein observed Oktawian was still resisting the officers who were attempting to place a handcuff on Oktawian's left arm, which was under Oktawian's stomach. Officer Duplechein transitioned to Oktawian's left side and used both of his hands to apply firm grips to Oktawian's left forearm. Officer Duplechein guided Oktawian's left arm behind his back. Officer Duplechein obtained a secondary pair of handcuffs. Officer Duplechein applied a firm grip to Oktawian's left wrist as Officer Van Gorden attached the second set of handcuffs to Oktawian's left wrist with Officer Duplechein's left hand. "...after I placed -- that cuff was on, and I looked to his left side to see if -- how far we were advancing in getting both hands cuffed, his left arm was underneath his -- his stomach area, and he was still resisting and struggling to give his hand to the officers. So, I instructed the officers to my right side to hold his right arm. I then moved over to the left side, and I believe I placed two hands on his forearm area of his left arm in order to assist in guiding it behind his back."⁵⁴

I then moved over to the left side, and I believe I placed two hands on his forearm area of his left arm in order to assist in guiding it behind his back. He was still

⁵¹ Officer Duplechein Page 12, Lines 18-25 and Page 13, Lines 1-8.

⁵² Officer Duplechein Page 26, Lines 8-10 and 24-25.

⁵³ Officer Duplechein Page 13, Lines 8-17.

⁵⁴ Officer Duplechein Page 13, Lines -13

*resisting during that time, but I was able to maneuver his arm behind his back. As I did so, and his arm was behind his back, I was given a pair of -- a secondary pair of cuffs by an unknown officer, and I assisted in conjoining that pair of cuffs to his left hand and assuring that both cuffs were conjoined so that he was double cuffed.*⁵⁵

*"So, I was behind him holding his left wrist behind his back. They advised they wanted two pair of cuffs on him. I reached underneath me and grabbed a pair of cuffs. It was handed to me by an unknown officer. And then I handed it to someone else so that I could now regain two hand control of that left arm again while someone else placed cuffs on that left hand."*⁵⁶

- **Officer Silva – Firm Grip**

According to Officer Silva, he observed Officer Duplechein grab Oktawian's hand. Officer Silva approached Oktawian on his left side and used his right hand to apply a firm grip to Oktawian's right tricep then used his left hand to apply a firm grip to Oktawian's right wrist.

*"I was on his right side... I placed my right hand on his right tricep, and I placed my left hand on his wrist -- on his right wrist."*⁵⁷

*"At that time, I turned back around facing the suspect and I see Officer Duplashay [sic] going to go grab his hands, and I see the suspect kind of like pulling away. I go right there -- I go and grab his arms as well."*⁵⁸

Officer Silva recalled, Oktawian began pulling away and moving forward which caused him to fall forward. Officer Silva released his grip, obtained a pair of handcuffs, and placed a handcuff onto Oktawian's right wrist.

*"The suspect starts pulling away and moving forward. At which point he falls forward like half of his body onto the couch."*⁵⁹

*"At which point I released my right hand and I went to go grab a cuff -- my handcuff, and I placed it on his -- on his right wrist."*⁶⁰

⁵⁵ Officer Duplechein Page 13, Lines 10-19.

⁵⁶ Officer Duplechein Page 36, Lines 11-18.

⁵⁷ Officer Silva Page 29, Lines 2, and 15-17.

⁵⁸ Officer Silva Page 11, Lines 5-9.

⁵⁹ Officer Silva Page 11, Lines 10-12.

⁶⁰ Officer Silva Page 31, Lines 23-25.

- **Officer Simon – Firm Grip, Bodyweight**

According to Officer Simon, he observed Oktawian's agitated state and felt like Oktawian was going to snap and strike somebody. When Oktawian turned towards Officer Duplechein, Officer Simon approached Oktawian, on his right side to be close enough to render assistance to Officer Duplechein. Officer Simon realized Officer Duplechein's attempt to de-escalate were not working. Officer Simon believed he and Officer Duplechein had to take action to prevent themselves from getting injured or allowing Oktawian to arm himself with a weapon. Officer Simon approached Oktawian and used his left hand to apply a firm grip to Oktawian's upper left arm as Officer Simon used his right hand to apply a firm grip on Oktawian's right wrist. Oktawian immediately tensed up, swung both arms forward, and began walking forward. When Oktawian walked forward, Officer Simon lost his grip on Oktawian's left arm.

Officer Simon recalled, *"I honestly felt like the subject was either going to snap and strike somebody, strike one of us, or, you know, because of how -- because of his agitated state... so when he had turned around and faced Duplechein, I approached him just in case if he decides to attack the officer and I was close enough to render assistance, Officer Duplechein, you know, advised that -- he verbalized, "We are going to" -- "you're going to be under arrest. This is what's going to happen." Given that de-escalation, communicating with him was not working due to how high he was. I mean, I immediately recognized that he -- he had to have been high on methamphetamine or PCP. So, communicating with him was not working so we had to take action to prevent from us getting injured or him striking somebody or arming himself with a weapon. We decided to go hands on."*⁶¹

*"I placed my left hand on his upper left arm, and my right hand on his right wrist using a firm grip. As soon as we both went hands on, the subject tensed up, clenched his fist, and swung his -- both of his arms forward and started walking forward."*⁶²

Note: According to the FID investigation, when interviewed, Officer Simon mistakenly believed he had grabbed Oktawian's right wrist with Officer Simon's right hand.

*"He started walking in a forward manner. And in that momentum, I lost grip of his left arm, and he fell forward onto the couch."*⁶³

According to Officer Simon, as Oktawian was on the ground, he attempted to control Oktawian's legs. Officer Simon used his right knee to apply body weight onto

⁶¹ Officer Simon Page 10, Lines 22-25, and Page 11, Lines 1-15.

⁶² Officer Simon Page 11, Lines 16-20.

⁶³ Officer Simon Page 12, Lines 6-8.

Oktawian's right thigh. Oktawian continued to actively and violently resist the officers.

Officer Simon recalled, *"And from my recollection, I went to control his legs by placing my left knee on to his right thigh utilizing body weight. Throughout this time, the subject is actively and violently resisting."*⁶⁴

Note: According to the FID investigation, when interviewed, Officer Simon mistakenly believed he had placed his left knee onto the back of Oktawian's right thigh. However, the FID investigation determined that Officer Simon had utilized his right knee, not his left knee.

Officer Simon recalled, As Officer Silva was attempting to place handcuffs onto Oktawian's right wrist, Officer Simon observed Officer Silva struggling to apply the handcuff. Officer Simon assisted Officer Silva and used his right hand to apply a wrist lock to Oktawian's right wrist.

*I saw that he was struggling to put the handcuff on, so I used my right hand on his right wrist and utilized a wrist lock. And also, maneuvered the jacket a little bit, pulled the jacket away so that the hinges can click on to the handcuff.*⁶⁵

- **Officer Ripplinger – Firm Grip, Bodyweight**

According to Officer Ripplinger, he approached Oktawian, reached out towards Oktawian, and used his hand to apply a firm grip to Oktawian's left arm to get Oktawian's hands behind his back. Officer Ripplinger observed that Oktawian was resisting the officers' efforts to take him into custody.

Officer Ripplinger recalled, *"At which point, I was able to reach out with my arm and grab his left arm. It was closest to me. I grabbed his left forearm wrist area just in an attempt to get his hands behind his back to get him into custody and to keep him from fleeing the -- the scene, the -- essentially, he was still resisting our efforts."*⁶⁶

According to Officer Ripplinger, Oktawian was attempting to stand up. Officer Ripplinger used his left hand to apply body weight to Oktawian's left shoulder. Officer Ripplinger then used his right hand to apply a firm grip to Oktawian's right hand.

Officer Ripplinger recalled, *"And then I was able just to hold his left with had a hand on his wrist and then a hand on the back his shoulder, because just kind of textbook*

⁶⁴ Officer Simon Page 12, Lines 8-12.

⁶⁵ Officer Simon Page 12, Lines 17-23.

⁶⁶ Officer Ripplinger Page 17, Lines 5-10.

academy stuff that you would do. And I held him there until the other officers had stabilized his right side.”⁶⁷

According to Officer Ripplinger, while Oktawian was being secured with two HRDs, he placed his right hand on Oktawian’s left wrist area. Officer Ripplinger placed his left hand on Oktawian’s back, left shoulder after the HRDs had been applied and Oktawian was placed in a seated position. Officer Ripplinger stated he did this to prevent Oktawian from falling backward.

“And his head was still off of the ground. Other officers called and put a hobble on him. So, I kept my hands where they were, as far as my recollection goes, one on the back side of the left shoulder, and my right on his left wrist area, and I made sure that they had the hobble secured. And as soon as they had the hobble secured, we immediately, under the instruction of Sergeant Morales, who was standing by, rolled him to the seated position. And at that point, I moved my left hand to the back of his neck. And I describe it as almost like if you were holding a baby and you didn’t want the baby’s head to fall backwards. I wasn’t putting any force on the back of his neck. I was just placing it there so he wouldn’t fall backwards, just kind of bracing him because there was no one behind him to hold him in that seated position. So, my left hand remained there while my right, I want to say, was on his right wrist, but not with any pressure. Just firm grip at most.”⁶⁸

According to Officer Ripplinger, once Oktawian was placed into a right-side recovery position, Officer Ripplinger, he placed his left arm onto Oktawian’s left wrist to prevent Oktawian from moving around.

Officer Ripplinger recalled, *“Ideally, we would have him on his left side, but for tactical reasons, he was essentially making himself dead weight. The right side is acceptable, so had him in that position. As far as my hands go, I didn’t have to put any pressure on him. He was still moving around, but he was handcuffed. He wasn’t going anywhere at that time, so I think I placed my left arm on his left wrist, because his right shoulder was underneath him in that side position.”⁶⁹*

- **Officer Rodriguez – Firm Grip, Bodyweight**

According to Officer Rodriguez, Oktawian stepped forward towards the couch in the living room once officers attempted to take him into custody. Oktawian moved in a forward motion to which Officer Rodriguez responded by using her left hand to apply a firm grip to his right arm and simultaneously placed her right hand at Oktawian’s right collar bone. However, because Oktawian’s momentum continued to move him forward, Officer Rodriguez stepped to her right, momentarily lost her grip, and fell

⁶⁷ Officer Ripplinger Page 18, Lines 20-24.

⁶⁸ Officer Ripplinger Page 19, Lines 13-25, and Page 20, Lines 1-7.

⁶⁹ Officer Ripplinger Page 21, Lines 4-12.

onto her knee. As Oktawian attempted to get up, Officer Rodriguez stood up slightly and used her right forearm to apply bodyweight across Oktawian's right shoulder blade.

Officer Rodriguez recalled, *"The officers go hands on each side and attempt to take him into custody. At which time, he steps forward, and his momentum continually goes forward, and he -- I placed my left hand on his arm. In an attempt to slow him, I placed my right hand on his right collar bone, but his momentum kept coming forward. I stepped to my right slightly, and he went forward and fell onto the couch."*⁷⁰

*He continued to move around in an attempt to get up, so I just applied body weight on the top of his right rear shoulder. Officers handcuffed him.*⁷¹

*I lost my grip momentarily falling to the side of the couch, at which time, I regained -- I believe I fell like on my knee. I stood up slightly, and I placed my right forearm across his back area around his right shoulder blade and applied body weight.*⁷²

- **Officer Nguyen – Firm Grip, Bodyweight**

According to Officer Nguyen, as Oktawian moved forward onto the couch in the living room, Oktawian was kicking his legs forward. Once Oktawian fell onto the couch, Officer Nguyen believed he used both of his arms and legs to wrap them around Oktawian's legs and applied bodyweight. Officer Nguyen's arms were wrapped around Oktawian's upper knees. Once officers had taken control of Oktawian's upper body, Officer Nguyen slid down and grabbed both of Oktawian's ankles, utilizing a firm grip. Officer Nguyen used both of his knees to apply bodyweight to Oktawian's left ankle. Once officers prepared to apply the HRD to Oktawian, Officer Nguyen removed his knees from Oktawian's ankles and transitioned to holding Oktawian's ankles with both of his hands, utilizing a firm grip.

Officer Nguyen recalled, *"I observed like probably four officers try and grab ahold of his arms. His legs was free. I was directing officers like, hey, you know, aim for the legs, because he was kicking forward and he just kept moving forward onto the couch. So that's when we grabbed ahold of the legs. I end grabbing both legs. I wrapped both my legs around him and both my arms around his legs at that -- at that point until they were able to control his arms."*⁷³

⁷⁰ Officer Rodriguez Page 11, Lines 2-10.

⁷¹ Officer Rodriguez Page 11, Lines 14-16.

⁷² Officer Rodriguez Page 35, Lines 20-24.

⁷³ Officer Nguyen Page 7, Lines 21-25 and Page 8, Lines 1-4.

*He kept kicking forward and that's what caused him to like kept slipping down. So once he slipped down, wrapped both my arms around his legs and both my legs around his knees.*⁷⁴

*"Both of my arms were on his upper knee."*⁷⁵

*"... once I had control of both of his legs with me wrapping around them, I was waiting for them to take control of his upper body. Once they were done with upper body, I was able to slide down, grab both ankles, and then place both my knees on one of his ankles, because he was kicking with that leg pretty good."*⁷⁶

*"I had both hands on his left ankle, and my knees was resting on his ankles until I was able to get ahold of both his legs and officers were able to assist me. I got off his knees from -- my knees off his ankles, and I was holding both of his ankles with both hands."*⁷⁷

*"I had both hands on his left ankle, and my knees was resting on his ankles until I was able to get ahold of both his legs and officers were able to assist me. I got off his knees from -- my knees off his ankles, and I was holding both of his ankles with both hands."*⁷⁸

Note: According to the FID investigation, when interviewed, Officer Nguyen believed he had wrapped both his arms and legs around Oktawian's legs. On the officers' BWV, Officer Nguyen was observed using only his hands and knees to secure Oktawian's ankles.

According to Officer Nguyen, he assisted with placing the HRD over Oktawian's legs and over Oktawian's knees. Officer Nguyen realized an officer holding an HRD at Oktawian's ankle was bleeding and therefore, took over control of that HRD. While doing this, Officer Nguyen used his left shin to apply bodyweight across Oktawian's lower legs.

Officer Nguyen recalled, *"So then I assisted with slipping the hobble through the legs and up to his knees. And then one of the officers was holding the ankle hobble and he was bleeding from his finger, so I took over for him. I directed him to like take care of it while I control the suspect's hobble of the ankles... And then I had both my -- I had a criss cross leg cross around his legs."*⁷⁹

⁷⁴ Officer Nguyen Page 1, Lines 10-14.

⁷⁵ Officer Nguyen Page 15, Lines 21-20.

⁷⁶ Officer Nguyen Page 19, Lines 1-7.

⁷⁷ Officer Nguyen Page 8, Lines 11-16.

⁷⁸ Officer Nguyen Page 8, Lines 11-16.

⁷⁹ Officer Nguyen, Page 8, Lines 18-24 and Page 15, Lines 24-25.

- **Officer Cairns – Firm Grip, Bodyweight**

According to Officer Cairns, she entered the residence and assessed the situation. Officer Cairns determined Oktawian's parents needed to be reminded not to get involved. Officer Cairns walked over to Oktawian's parents to ensure they maintained their distance. However, Officer Cairns observed that the officers were struggling with Oktawian's legs. Officer Cairns utilized both hands to apply a firm grip and bodyweight to Oktawian's right leg, around his calf area.

Officer Cairns recalled, *"I assessed the situation and determined that I was more needed to make sure that the parents that were there did not get involved. So I initially went over to the parents to make sure that they weren't going to get involved. And then I looked over and I saw that some officers were struggling with the legs, so that's when I went over there, and with both hands, I applied some firm grip and a little bit of weight to his right leg around his calf area."*⁸⁰

*"I realized that some officers were struggling with his -- maintaining control of his legs."*⁸¹

According to Officer Cairns, she had a difficulty crossing Oktawian's ankles due to his weight. Because of this, a second HRD was utilized. Officer Cairns placed the HRD above Oktawian's knees as a controlling device and maintained possession of the HRD strap. Oktawian rolled himself onto his right side. Officer Cairns utilized her knees to apply bodyweight onto Oktawian's thigh to control his movements. However, Officer Cairns stated she did not put all her weight on Oktawian.

Officer Cairns recalled, *"And then another hobble was used, because we were having a hard time crossing his ankles due to his weight. And at that point the other hobble was put on. I assisted in that one as well. We brought that one up above the knees so that we can control him there...I assisted in tightening it. And then after it was tightened, it was handed off to another officer. I believe it was Officer Silva."*⁸²

*"And so, we kept him on that side, which was the side he chose to roll over onto. And I applied a little bit of weight. I didn't put all -- I put my knees on his thigh and I kind of -- to keep him down, but I didn't put all my weight on him..."*⁸³

⁸⁰ Officer Cairns Page 9, Lines 8-17.

⁸¹ Officer Cairns Page 37, Lines 16-18.

⁸² Officer Cairns Page 10, Lines 3-12.

⁸³ Officer Cairns Page 11, Lines 2-8.

- **Officer Kowalczyk – Firm Grip, Bodyweight**

According to Officer Kowalczyk, she observed that Oktawian had already been placed in handcuffs. Oktawian began to flail and kick his legs. Officer Kowalczyk utilized her hands to apply bodyweight onto Oktawian's legs in order to prevent him from kicking them. Officer Kowalczyk applied bodyweight for approximately five to ten seconds. Officer Kowalczyk did not recall which hand was placed on each of Oktawian's legs. Officer Kowalczyk utilized her hands to apply bodyweight onto Oktawian's left bicep area and left shoulder simultaneously. Officer Kowalczyk observed that Oktawian was continuing to kick his legs up and flail around. Officer Kowalczyk assisted in the application of both HRDs.

Officer Kowalczyk recalled, *"So, once the handcuffs were placed on him, I saw that he really started to flail his legs around and kick his legs. So I used my hands and put my body weight on his legs to prevent him from continuing to kick him...I would say approximately 5-10 seconds."*⁸⁴

*"I would say it was a downward force... Like a crouched position."*⁸⁵

*"I was holding down his left arm shoulder area. So his -- his -- like his left bicep area, and then left shoulder."*⁸⁶

*"... officers put handcuffs on him. And then I assisted in putting the hobble on his lower legs... on his ankles. And then the hobble just above his knees."*⁸⁷

*"He was kicking his legs up, so we placed the hobbles on there to de-escalate for him to continue to do so... So originally, once the hobbles were applied, he was in a sitting up position, but he continuously flailed his body around. And he eventually fell to his right side. So we just kept him in that position."*⁸⁸

Background: According to the FID investigation, the use of force occurred in the dining room located at the front of the residence. The dining room contained various pieces of furniture, including a couch along the south wall. According to Officer Cairns, there was a dresser, a table, and a Christmas tree. The room was small.

The UOFRB noted that leading up to the non-lethal use of force, Officer Rodriguez attempted to avoid agitating Oktawian any further and advised Officer Silva to avoid pointing his flashlight directly at Oktawian. Officer Rodriguez maintained her

⁸⁴ Officer Kowalczyk Page 19, Lines 2-6 and Page 20, Lines 10-11.

⁸⁵ Officer Kowalczyk Page 25, Lines 16-17, and 20.

⁸⁶ Officer Kowalczyk Page 9, Lines 18-20.

⁸⁷ Officer Kowalczyk Page 7, Lines 9-11 and Page 10, Lines 2-3.

⁸⁸ Officer Kowalczyk Page 11, Lines 23-25, and Page 25, Lines 4-8.

position as contact officer for communications with Oktawian until Officer Duplechein took over that role by speaking with Oktawian. The UOFRB noted that Officers Rodriguez and Duplechein's actions consistent with those recommended in the Department guidelines when dealing with subjects who were experiencing excited delirium.

After it became evident Oktawian was not responding to Officers Rodriguez and Duplechein's attempts to communicate, Officers Duplechein and Simon attempted to gain physical control of Oktawian by utilizing firm grips. The UOFRB noted that even after the utilization of firm grips, Oktawian was still able to pull forward towards the couch in an attempt to move away from officers. Due to Oktawian's behavior and level of resistance, the UOFRB discussed that the non-lethal force utilized by the additional officers was reasonable. Officers Rodriguez, Ripplinger, Cairns, Nguyen, and Kowalczyk assisted Officers Duplechein and Simon in their attempt to take Oktawian into custody. During this time, Officer Duplechein and Sergeant Morales advised against the use of additional force options and directed the other officers to only utilize physical force. The UOFRB noted that all the officers involved were cautious in using the minimal amount of force necessary in order to apply and properly secure the handcuffs onto Oktawian.

The UOFRB considered the non-verbal communication between Officers Duplechein and Simon. Officers Duplechein and Simon nodded their heads in silent acknowledgement while making eye contact as a non-verbal cue to take Oktawian into custody. Officers Duplechein and Simon approached Oktawian simultaneously and each officer stated they understood the other's signal to approach having previously worked together. While the officers had an understanding in this incident, the UOFRB would have preferred Officers Duplechein and Simon had verbalized their plans prior to enacting them rather than rely on non-verbal cues. However, the UOFRB noted the officers were in concurrence with regard to their plan to take Oktawian into custody and were able to successfully do so. In addition, the UOFRB discussed the Department's development of non-verbal communication guidelines to assist officers in tactical incidents where verbalization could reduce an officer's tactical advantage.

The UOFRB analyzed Officers Cairns and Kowalczyk's application of the HRD, with the assistance of Officer Nguyen. Oktawian continued to kick his legs as officers struggled to maintain control of him. Officers Cairns and Kowalczyk's application of the HRD on Oktawian's ankles was determined by the UOFRB to have been a preventative measure, which lowered the risk of injury to Oktawian and the officers as is recommended within Department's policy with regard to excited delirium. After discovering officers were still struggling to gain control of Oktawian as he continued to move his legs, Officer Cairns applied a second HRD to Oktawian's knees. Officer Cairns' application of an additional HRD to Oktawian's knees was effective and concurrent with the recommendations within Department policy with regard to the use of a HRD. Officers Cairns and Ripplinger immediately placed Oktawian in a recovery position after the application of the second HRD.

In their discussions with regard to the injury sustained by Oktawian, the UOFRB noted that there was a period of approximately 13 hours from the time the officers had made contact with Oktawian to the time when the injury was discovered. During that timeframe, Oktawian had climbed up onto and jumped off of a wall, was evaluated several times by various medical professionals and hospital staff, was restrained by hospital staff, and continued to bend his right arm, which may have caused a repeated dislocation as indicated in the FID investigation. In addition, the UOFRB further factored in that a period of time had passed between the first radio call and the second radio call in which the use of force occurred. The investigation was unable to discern if there were any incidents that had occurred in between those radio calls, or if there were other incidents not related to police activity. Oktawian could have sustained an injury due to an altercation or accident by other means. The UOFRB reviewed the circumstances, Oktawian's statements, and BWVs surrounding this incident with particular attention given to any indications that the involved officers had engaged in a gratuitous or intentional harming of Oktawian. The UOFRB noted that the officers' perspectives were focused on trying to mitigate any potential injury to Oktawian based on their attempts to limit his movements, concern for his safety, continuous de-escalation attempts, and utilizing a minimal amount of force in order to safely secure Oktawian.

Based on the totality of the circumstances, the UOFRB determined, and the Chief concurred, that an officer with similar training and experience, in the same situation as Officers Rodriguez, Nguyen, Duplechein, Cairns, Simon, Kowalczyk, Ripplinger, and Silva, would believe that the same application of non-lethal force was objectively reasonable to overcome Oktawian's resistance to being detained.

Therefore, the Chief found Officers Rodriguez, Nguyen, Duplechein, Cairns, Simon, Kowalczyk, Ripplinger, and Silva's use of non-lethal use of force to be In Policy, No Further Action.

Additional/Equipment

- **Body Worn Video Activation** – The FID investigation revealed that Officers Cairns, Luna, and Duplechein did not have a full two-minute pre-activation buffer at the time of the incident. An analysis by North Hollywood Area determined that Officers Cairns, Luna, and Duplechein each had one prior BWV deviation involving a late activation or early termination. This issue was brought to the attention of Captain R. Ramirez, Serial No. 27442, Commanding Officer, North Hollywood Area, who noted that these deviations did not fall under the exception to the BWV requirements. Captain Ramirez advised the issue was addressed through the generation of a Supervisory Action Item (SAI) and the issuance of an Employee Comment Sheet for each of the respective officers. The Commanding Officer of Operations – Valley Bureau (OVb) and the Director of the Office of Operations (OO) concurred with this action. As such, the Chief deemed no further action is necessary.

The FID investigation revealed that Sergeant Hooper and Officer Rodriguez did not have a full two-minute pre-activation buffer at the time of the incident. An analysis by North Hollywood Area determined that Sergeant Hooper and Officer Rodriguez had no prior BWV deviations. This issue was brought to the attention of Captain Ramirez, who noted that these deviations did not fall under the exception to the BWV requirements. Captain Ramirez advised the issue was addressed through the generation of a SAI and an Informal Meeting for each of the respective employees. The Commanding Officer of OVB and the Director of OO concurred with this action. As such, the Chief deemed no further action is necessary.

The Office of Operations conducted a random inspection of BWVs associated to Sergeant Hooper and Officers Cairns, Luna, and Duplechein from August 17, 2020 through September 16, 2020, for compliance with BWV policy specific to a full two-minute pre-activation buffer. The results of the inspection indicated that they were all in compliance.

The Office of Operations conducted a random inspection of BWVs associated to Officer Rodriguez, who has been assigned to a non-field assignment since February 16, 2020. The period selected for the random inspection of a full two-minute pre-activation buffer was February 1, 2020 through September 16, 2020. The results of the inspection indicated that Officer Rodriguez had two deviations between February 5, 2020 through February 14, 2020. This issue was addressed through the generation of an Employee Comment Sheet. As such, the Chief deemed no further action is necessary.

- **Required Equipment** – The FID investigation revealed that Officer Nguyen did not have a Hobble Restraint Device on his person at the time of the incident. This issue was brought to the attention of Captain Ramirez who advised that this issue was addressed through the generation of a SAI and Divisional Training. The Commanding Officer of OVB, and the Director of OO concurred with this action. As such, the Chief deemed no further action is necessary.

Officer Rodriguez was not in possession of her baton or other impact device. This issue was brought to the attention of Captain Ramirez who advised that this issue was addressed through the generation of a SAI and Divisional Training. The Commanding Officer of OVB and the Director of OO concurred with this action. As such, the Chief deemed no further action is necessary.

- **Code Three Response** – Officer Van Gorden responded in his police vehicle to Officer Rodriguez' back-up request and activated his emergency lighting equipment, but only utilized the police vehicle's siren intermittently while responding. This issue was brought to the attention of Captain Ramirez, who advised this issue was addressed through the generation of a SAI and Divisional Training. The Commanding Officer of OVB and the Director of OO concurred with this action. As such, the Chief deemed no further action is necessary.

- **Non-Categorical Use of Force Protocols** – Sergeants Morales, Mejia, and Hooper allowed Officer Simon and Officer Silva to accompany LAFD personnel in the RA with Oktawian. Officers Simon and Silva had been involved in the use of force in which Officer Silva had sustained a minor injury. There were additional officers present who were not directly involved in the use of force and not injured, who could have accompanied Oktawian in the RA, thus allowing the investigating supervisor to interview involved officers.

Neither Sergeants Morales, Mejia, nor Hooper accompanied the officers with the transport of Oktawian to Sherman Oaks Hospital to ensure supervision of the custody of Oktawian. At that time, a NCUOF had already occurred, thus raising the possibility of an additional incident occurring.

Sergeant Mejia utilized Sergeant Hooper's personal cellular phone to take photographs of Oktawian for the initial use of force investigation, which was a NCUOF investigation at the time.

Sergeant Hooper was assigned to complete the NCUOF investigation. Sergeant Hooper arrived at the location and interviewed both Tomasz and Urszula together. While at scene, Sergeant Hooper utilized his personal cellular phone to take photographs for the NCUOF investigation. Sergeant Hooper did not respond to Sherman Oaks Hospital to interview Oktawian.

Note: Sergeant Hooper had not yet completed this investigation when he was notified of the case status change from a NCUOF to a Categorical Use of Force.

These issues were brought to the attention of Captain Ramirez, who advised that these issues were addressed through the generation of SAIs. The Director of OO directed the issuance of an Employee Comment Sheet for each of the supervisors. As such, the Chief deemed no further action is necessary.

Audio/Video Recordings

- **Body Worn Video (BWV)** – Officer Luna's BWV captured Sergeant Mejia standing outside of the residence in the driveway as officers were engaged in attempting to de-escalate Oktawian and as the non-lethal use of force began. Officer Luna's BWV also captured Sergeant Mejia directing Officer Luna to wait outside because there were enough officers inside the location.

Officer Luna and Topete's BWV captured Urszula retrieving the restraining order files.

Officer Rodriguez' BWV captured Oktawian jumping into his parent's backyard, Officers Rodriguez and Silva's initial approach into the residence, and the initiation

of the non-lethal use of force. Officer Rodriguez' BWV also captured Urszula showing officers her restraining order documentation.

Sergeant Morales' BWV captured his response and his verbal instruction during the non-lethal use of force in which he directed officers to only use bodyweight and no further force. Sergeant Morales also directed officers to place Oktawian on his side immediately after the officers finished adjusting Oktawian's handcuffs.

Officer Cairns BWV captured the application of Oktawian's two HRDs as well the handcuff adjustment where Oktawian was placed into the prone position for approximately 40 seconds.

Officers Silva and Simon's BWV captured Oktawian's transport by RA and interaction between LAFD personnel and Oktawian.

Officer Duplechein's BWV captured Oktawian turning towards Officer Duplechein and opening and closing his hands and yelling. The subsequent non-lethal use of force is captured, but due to poor lighting and the proximity of Oktawian to Officer Duplechein's BWV, very little of it was visible.

Note: According to the FID investigation, Officers Simon, Duplechein, Silva, and Rodriguez' BWVs became dislodged during the non-lethal use of force.

Outside Video – FID investigators located security video from the Martinez' residence at 6233 Elmer Avenue. The video captured the plastic bottle and rock being thrown at the front of the residence.

Digital In-Car Video System (DICVS) – Officers Simon and Van Gorden's DICVS captured audio of the non-lethal use of force; however, it was not in a position to capture activity outside or inside of the residence.

Photographs – On January 5, 2020, Sergeant Hooper photographed the inside of the residence. Sergeant Mejia photographed Oktawian who was in the rear of the RA.

Photographer K. Coogle, Serial No. V8680, Technical Investigation Division, photographed Oktawian at the hospital.

INSPECTOR GENERAL REVIEW

Inspector General Analysis

Investigation Quality

- No significant issues of concern were identified in relation to investigation quality.

Training Issues

- No significant issues of concern were identified in relation to training.

Equipment Issues

- No significant issues of concern were identified in relation to equipment.

Detention

- The OIG concurs with the Chief's analysis.

Tactical De-escalation

- The OIG concurs with the Chief's analysis.

BWV and DICVS Policy Compliance

| SERIAL | NAME | TIMELY BWV ACTIVATION | FULL 2-MINUTE BUFFER | BWV RECORDING OF ENTIRE INCIDENT | TIMELY DICVS ACTIVATION | DICVS RECORDING OF ENTIRE INCIDENT |
|--------|----------------------|-----------------------|----------------------|----------------------------------|-------------------------|------------------------------------|
| 39555 | Cooper, Chase | Yes | No | Yes | N/A | N/A |
| 38964 | Rodriguez, Sonia | Yes | No | Yes | N/A | N/A |
| 41945 | Duplechein, Jonathan | Yes | No | Yes | N/A | N/A |
| 41531 | Luna, Lizbeth | Yes | No | Yes | N/A | N/A |
| 42457 | Cairns, Elizabeth | Yes | No | Yes | N/A | N/A |

Inspector General Recommendations

Tactics

- The OIG concurs with the Chief's findings.
- In its review of the tactics employed during this incident, the OIG closely examined the available evidence regarding the period of time lasting approximately 40 seconds during which Oktawian appeared to be in a prone position after having been restrained with an HRD. The BWV footage depicting this portion of the incident is inconclusive as to the amount of time during which Oktawian may have been in a fully-prone position while officers sought to properly secure his handcuffs, as it

appears to show that Oktawian's torso was partially turned (and, thus, that he was not entirely prone) for at least some of the time. Given this analysis, and that the purpose of Oktawian's positioning was in order to facilitate the double-locking of the handcuffs securing him - as is required by the HRD Tactics Directive when transporting a hobbled arrestee - the OIG does not believe that the available evidence supports a finding that the officers' performance unjustifiably and substantially deviated from approved Department tactical training in this regard. Nevertheless, in light of the critical importance of appropriate positioning of subjects following the application of an HRD, the OIG recommends that this topic be addressed in the Tactical Debrief.

Non-Lethal Use of Force

- The OIG concurs with the Chief's findings.

A handwritten signature in black ink, appearing to read "M. P. Smith". The signature is fluid and cursive, with the first name "M." and last name "Smith" clearly distinguishable.

Mark P. Smith
Inspector General